

Under current law, assaulting or harassing a police dog is a third-degree felony. However, according to Rep. Schuring, there is no law addressing the intentional killing of a police dog.

"I really think that type of action rises to the level of a stiffer penalty," he said. "These dedicated canines are a valuable extension of law enforcement."

The bill's other sponsor, Rep. Slesnick, told the committee K-9 officers are "a key component in law enforcement."

"They are often on the frontlines protecting their partners and communities, and are incredibly useful in searching for missing persons," he said. "While performing their duty, a strong bond is created between the officers and the K-9 unit, so much so that police departments often look at the dogs as one of their own."

SB CONTRACTOR LABOR (Uecker, J.) To prohibit a public authority from requiring a contractor to employ **152a** a certain percentage of individuals from the geographic area of the public authority for the construction or professional design of a public improvement. (**REPORTED-AMENDED (See separate story); 6th Hearing-All testimony-Possible amendments & vote)**

SCRTOXIC EXPOSURE (Uecker, J.) To urge the United States Congress to pass and the President to sign into **11** law the Toxic Exposure Research Act of 2015. (**REPORTED; 2nd Hearing-All testimony-Possible vote)**

Clifford Riley, president of the Vietnam Veterans of America Buckeye State Council, told the committee that the "Toxic Exposure Act is the most important piece of legislation since the Agent Orange Act of 1991."

The bill before Congress, he continued, establishes a national center for research on health conditions of the descendants of veterans exposed to toxic chemicals; establishes a board to oversee the center; directs the Secretary of Defense to declassify certain documents related to exposure; and directs the other federal officials to conduct outreach about exposure to toxic chemicals.

Subscribers Note: For full testimony, visit the [committee's website](#) under May 3.

Local Government

HB BODY CAMERAS (Boyce, K., Grossman, C.) To require law enforcement agencies that use body cameras **407** to adopt written policies for operation of the cameras and to require agencies to make the adopted policies available to the public. (**CONTINUED; 4th Hearing-All testimony)**

Michael Weinman, director of government affairs for the Ohio Fraternal Order of Police, told the committee his organization may be inclined to support this measure if an amendment is adopted allowing officers involved in the filming to review footage.

"With all new technology, especially in regard to recording devices, there is a natural tendency to be suspicious of and reluctant to use it," he said. "What the FOP has learned from dash cams is that, in the event of a complaint, footage has been tremendously beneficial in clearing officers of wrongdoing in the majority of cases."

However, he said cameras are limited in their view.

"There are a dozen cameras used to record and replay a fumble on a football field," he said. "Armchair quarterbacks can pick apart the actions of the players and referees from all those views. The lone body camera will not be able to pick up the person, or people, coming out of the houses behind the officer, which may change the entire dynamic of how an officer is forced to react to an evolving situation."

In written testimony, Katie Hanna, executive director the Ohio Alliance to End Sexual Violence, told the committee that while her organization supports transparency and accountability, the legislation needs to protect the privacy rights of crime victims in a "more detailed and tangible way."

"Without clearly established and regulated protections for victims, OAESV is concerned about a chilling effect on reporting, as increased visibility may cause victims of sexual assault, domestic violence, and stalking to avoid contact with law enforcement," she wrote. "Survivors of these crimes have unique safety concerns that must be addressed before a law or policy can achieve real growth in community safety."

"To avoid a chilling effect, crime victims should have the right to ask officers to turn off cameras, preferably while the camera is recording. Officers should notify victims about the camera and their right to have the camera turned off as soon as is practicable. Any law or policy enacted must contain provisions that clearly highlight when a recording is not a public record and cannot be provided to the media, particularly because the increased footage will inevitably contain identifiable information of victims," she continued.

HB BOARDING SCHOOL ZONE (Patterson, J., Roegner, K.) To authorize a municipal corporation or **455** township to establish a boarding school zone and a special speed limit within that zone. (**REPORTED (No testimony)**; 4th Hearing-All testimony-Possible vote)

Subscribers Note: For full testimony, visit the [committee's website](#) under May 3.

Judiciary

HB DUI SENTENCES (Cupp, R., Rogers, J.) To authorize a judge that grants limited driving privileges to a **436** second-time OVI offender to order the termination of the mandatory immobilization order. (**REPORTED (No testimony)**; 4th Hearing-All testimony-Possible vote)

HB VOYEURISM (Anielski, M.) To include an impaired person as a victim of voyeurism and to include **439** conduct involving an impaired person within the offenses of pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, and illegal use of a minor in a nudity-oriented material or performance. (**REPORTED (No testimony)**; 4th Hearing-All testimony-Possible vote)

HBOVI OFFENSES (Manning, N.) To specify that the prison term that may be imposed for a third degree **446** felony operating a vehicle while intoxicated ("OVI") offense is a definite period of twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months, to add "harmful intoxicant" to the definition of "drug of abuse" for the purposes of commercial driver's licensing law, to allow a person to assert the existing affirmative defense of driving in an emergency with regard to a prosecution for driving under a suspended driver's license under specified laws, and to specify that certain enhanced penalties for speeding violations apply regardless of whether the offender previously has been convicted of or pleaded guilty to speeding. (**REPORTED (No testimony)**; 4th Hearing-All testimony-Possible vote)

HB RESTRAINING ORDERS (Celebrezze, N.) To require a court to issue a mutual restraining order on both **516** parties upon the filing of a complaint for a divorce, annulment, or legal separation. (**CONTINUED**; 1st Hearing-Sponsor)

The measure, sponsoring Rep. Celebrezze said, would create uniformity across Ohio in restraining orders issued at the onset of divorce proceedings.

"While most courts in Ohio already have a version of the restraining orders in place at the time that the filing and subsequent service on the divorce matter has been filed with the court, it varies from county to county, and I believe that uniformity of the issue, with judicial discretion, would greatly serve our citizenry during what is already a difficult time," he said.

"As in other restraining orders this is not meant to withhold a party's individual wages or their separate property, necessary business accounts, nor does it restrain any government agency or brokerage house from making investments during the pendency of the litigation," he added.

Rep. Pelandra said she has concerns with a portion of the bill that says the restraining order will state that the parties cannot interfere with parenting rights before the issue has been settled by a court.

Rep. Celebrezze said the legislation is modeled off of Cuyahoga County's mutual restraining order policy and that he would be willing to tweak the bill.

Rep. Rezabek asked how the legislation would affect the rights to a marital home.

Rep. Celebrezze said the bill does not address that issue.

Rep. Butler questioned the constitutionality of a portion of the restraining order that would forbid the parties from making disparaging remarks about each other in the presence of a minor child.

Rep. Celebrezze said he is unsure if that matter has ever been tested in court.

HBBIRTH CERTIFICATIONS (Celebrezze, N.) To require the clerk of court, in domestic relations cases in **517** which proof of a child's birth is required to be included in a pleading, to access the electronic system of vital records of the State Registrar or Department of Health and issue a certification of birth to the party applying for such certification upon payment of the required fees. **(CONTINUED; 1st Hearing-Sponsor)**

The measure would "make access to the courthouse easier for litigants already being involved in a contentious and strenuous scenario," sponsoring Rep. Celebrezze told the committee.

"Quite simply this bill will require that the clerk's offices that accept the filings of new cases that deal with the care and custody of children, and that require proof of a birth certificate for minor children named in the matter, particularly application to determine custody and some domestic relations court cases, to serve as a dispensary of a birth certificate, upon request, and at the cost of the applicant," he said.

Rep. Pelanda asked why Cuyahoga County requires the filing of a birth certificate.

Rep. Celebrezze said many case filings are rejected because a birth certificate is not attached.

HBPAROLE ELIGIBILITY (Manning, N.) To provide special parole eligibility dates for persons with an **521** indefinite or life sentence imposed for an offense committed when the person was less than 18 years of age, to require the Parole Board to consider specified mitigating factors in those cases, and to require notice to the Ohio Public Defender and prosecuting attorney prior to the parole consideration hearing. **(CONTINUED; 1st Hearing-Sponsor)**

Nearly 62 inmates who were convicted of crimes as juveniles would be eligible for parole under the legislation, according to sponsoring Rep. Manning.

Under the measure, those with prison sentences totaling at least 15 years would be eligible for parole after serving 15 years. If the sentence permits parole only after serving 15 years or more, the prisoner would be eligible for parole after 15 years. Inmates serving life sentences without the possibility of parole would be eligible for early release at the age of 40.

"It's important to reiterate that this only grants the offender a timely hearing once they become eligible, not guaranteed release," Rep. Manning said. "The Parole Board shall also consider specific mitigating factors related to the offender's situation such as their age, their diminished culpability as a youth, common characteristics including immaturity and failure to weigh risk and consequences, the individual's home environment, and how the offender has grown or matured during imprisonment."

Eighteen states have eliminated life without parole as a sentencing option for juvenile offenders, according to Rep. Manning.

Companion legislation (**SB 272**) recently received its first hearing in the Senate.

Chairman Rep. Butler questioned how soon after being denied parole an offender would be able to receive another hearing.

Rep. Manning said he is unsure.

SB DISTRACTED DRIVING (Hughes, J., Seitz, B.) To establish an enhanced penalty for committing a **146** moving violation while distracted. (CONTINUED; 3rd Hearing-All testimony)

In written interested party testimony, Howard Schnitz of Bexley told the committee that more needs to be done to prevent texting while driving.

"Texting while driving is a far more serious and pervasive issue than even drunk driving. Just a few short years ago, virtually nobody was texting while driving," he wrote. "Today, more than 30% of drivers admit to having sent a text while driving in the last 30 days. Soon, that number will be a majority. There will be more people texting than not. We should treat it as the heinous crime that it is. People injured or killed by distracted drivers were involved in circumstances that were 100% preventable."

Cathy Richeson, whose son was killed by a distracted driver, urged the committee to move the bill in written testimony.

The woman who hit and killed her son while he was changing a tire on Interstate 77 received a sentence of just six months in prison, she said.

"I am ashamed of our justice system, as you should be as well. The laws set to provide safety and security to our law abiding citizens are in sad disrepair, in that we do not have mandatory laws to address crimes such as distracted driving," she wrote. "My hope is that Nathan's death will not be in vain, but will be seen rather as a ray of hope that sets a strong precedent to change the laws that govern our judges and prosecuting attorneys."

SB COURT PROCEEDINGS (Seitz, B.) To enact the Uniform Interstate Depositions and Discovery Act. **171** (CONTINUED; 1st Hearing-Sponsor)

Sponsoring Sen. Seitz told the committee the bill would bring Ohio in line with 34 other states and make the discovery process more efficient.

"The litigators in the room know discovery across state lines is controlled by O.R.C. 2319.09. That law dates to 1953. The litigators also know the discovery process has radically changed over the last 62 years," he told the committee.

"In an attempt to keep pace with the changes, the Uniform Interstate Deposition and Discovery Act was designed to create an uniform interstate procedure that is easily and efficiently followed, that has a minimum of judicial oversight and intervention, that is cost-effective for the litigants and that is fair to those being deposed," he continued.

He also told the committee the measure establishes clear rules governing discovery.

SB DRIVERS LICENSE SUSPENSIONS (Seitz, B.) To make the suspension of an offender's driver's license **204** for a violation of specified drug offenses discretionary rather than mandatory, to authorize a court to terminate a driver's license suspension imposed for specified drug offenses committed out-of-state, to generally authorize a court to terminate a previously imposed mandatory suspension for specified drug offenses, to provide for the discretionary suspension of an offender's driver's license for possessing nitrous oxide in a motor vehicle, and to make consistent the provisions of law governing the ability of a court to grant limited driving privileges. (CONTINUED; 1st Hearing-Sponsor)

The bill is the product of more than two years of work with the Ohio Judicial Conference, sponsoring Sen. Seitz told the committee.

Under the measure, judges would have discretion to apply a driver's license suspension in the case of drug offenses unless the offense was committed while driving or a vehicle was used in the commission of a drug crime, in which case the suspension would be mandatory.

"Current law, in contrast, deprives the court of all discretion even where the drug offense had nothing whatsoever to do with one's driving habits or abilities," he said. "This is an important aspect of Senate Bill 204 as often the inability to drive when an offender has lost his or her driver's license can do more harm than what the punishment merits.

"The individual may lose their job, or prevent the individual from obtaining secure employment, based on the fact that they no longer have a reliable means of transportation making it difficult or impossible to get to work," he continued. "This in turn can inhibit the payment of any fines or fees associated with the drug charge."

Sen. Seitz also said the measure has the potential to reduce the state's prison population.

"We are cutting down on the opportunity for technical parole violations," he said.

SB VEHICLE FORCIBLE ENTRY (Hughes, J., LaRose, E.) To grant a person immunity from civil liability **215** for any damage resulting from the forcible entry of a motor vehicle for the purpose of removing a minor or an animal from the vehicle because the minor or the animal is in imminent danger of suffering harm. (REPORTED; 3rd Hearing-All testimony-Possible vote)

Pat Fogo on behalf of seven animal welfare organizations told the committee that 22 states across the country currently have "hot car" laws.

"To put the risks of a hot vehicle in perspective: Parked cars quickly trap the sun's heat. Even on a day when it's 70 degrees outside, the temperature inside a vehicle with all the windows closed can rise to 90 degrees in just 10 minutes," she said. "On a hot day, the temperature inside a closed vehicle can rise as high as 116 degrees in the same amount of time."

Beth Sheehan of Cincinnati also provided testimony in support of the measure.

SB DEATH DESIGNATION DEEDS (Bacon, K.) To amend the law related to transfer on death designation **232** deeds and affidavits. (CONTINUED; 1st Hearing-Sponsor)

The measure would ensure property rights are protected for divorced Ohioans, according to sponsoring Sen. Bacon.

"Currently, Ohioans who execute a transfer on death designation affidavit or transfer on death deed are required to revoke either document following a divorce to ensure that their former spouse has no claim to their property," he said.

"This issue is compounded by the fact that an increasing number of Ohioans are seeking divorce without the advice of an attorney, who would ordinarily advise that they make these changes. Revocations currently exist in many similar contexts, including wills, life insurance policies, annuities, POD accounts, IRA's, and employer death benefit plans," he continued.

Subscribers Note: For full testimony, visit the [committee's website](#) under May 3.

Finance

HB FILM TAX CREDITS (Schuring, K.) To authorize motion picture companies to transfer the authority to **475** claim refundable motion picture tax credits to other persons, to adjust how the credit is calculated, to increase the total amount of credits that may be awarded per year, to remove the limit on the maximum credit amount that may be awarded to a motion picture, and to create a job training program for resident film crew members. (CONTINUED; 2nd Hearing-All testimony)

The panel heard from several proponents of the measure who either testified in person or submitted written comments in support.

John Daugherty, executive director of the Greater Columbus Film Commission, and Ivan Schwarz, president and CEO of Greater Cleveland Film Commission, both spoke in support of expanding the overall cap on the credits but differed in their opinions of the per-project limits.

"We are completely in favor of raising the tax credit. Our concern is with removal of the cap per project and monopolization of the credit for one region," Mr. Dougherty said. "In reality, with no cap per project two large films could come in and use up the entire credit. Many of those jobs on large films are for people who reside out of state, and the production comes to Ohio and leaves. This is not good for the state."

"We want every job to remain in Ohio on a film. Although this is not likely a reality, we should strive for that," he added. "We should attract production companies that want to live and reside in Ohio along with major motion pictures. If we work together to realize the proper plan and the proper legislation this can be possible."

Mr. Schwarz said the state shouldn't cap the per-project credit amounts because doing so might inhibit attracting large moves and the needed development of infrastructure in the state.

The witness said that since 2009, the growing industry has had a \$400 million economic impact on the state and by expanding the credit it could be as high as \$600 million a year.

He told Rep. Antonio that Georgia has reportedly created 79,000 jobs averaging \$84,000 a year with a 30% uncapped incentive, but that state made it a priority to immediately generate a major film industry and now has more operations than California.

He described the efforts in Ohio as more "responsible" but said the current \$5 million cap per project is a barrier to some filmmakers.

Rep. Sprague questioned why the tax credit was refundable. Mr. Schwarz said it was more attractive to the industry.

The witness told Rep. Reece that the industry is diverse and the hope is at some point the infrastructure and trained workforce will be strong enough so filmmakers won't have to bring their own workers into the state. "We want to make it so it's mostly Ohio crew when they film here," he said.

Rep. Romanchuk questioned why the film industry should benefit from a refundable tax credit instead of all others. Mr. Schwarz said the industry was attractive to younger creative people and it was important to keep them in the state "in an industry that's considered cool."

"We need to keep building that," he said.

Also relaying support for the bill were representatives of NBC Universal, which plans to film *Fast and Furious 8* in Ohio, the Motion Picture Association of Ohio, HBO and the Ohio Municipal League.

HB DEVELOPMENTAL DISABILITIES (Amstutz, R.) To modify programs administered by the Department 483 of Developmental Disabilities and to make an appropriation. (CONTINUED-SUBSTITUTE; 2nd Hearing-
 All testimony-Possible amendments & substitute)

Rep. Sprague detailed the provisions in the substitute bill, which entail language impacting ABLE accounts, Intermediate Care Facilities payments and issues related to downsizing, cost reports, delegated nursing, condition of use and county board employee participation in insurance pools. (Substitute Comparison Document)

Monty Blanton, a longtime state employee who worked at Gallipolis Developmental Center for 32 years and is currently the lead staff for the Ohio Civil Service Employees Association on issues regarding the state developmental centers, raised some concerns about the ongoing transitional process involving the DCs.

While OCSEA appreciates DODD Director Martin's plan for a two-year transition aimed at providing more time for successful placements, he said. "there are still some very complicated individuals who have had a very difficult time during the transition.

"Some have moved from place to and place, and others have failed to thrive at all in the move. Additionally, for many family members, there are no other appropriate settings for their loved ones and they are simply waiting out their time. At which time they will move to another DC," he said. "In the cases of individuals failing in their new settings, there is little information on how or why they failed to thrive. We know of too many who have left a DC and then ping ponged around the system from place to place."

Mr. Blanton said the legislature should push for more tracking data on the relocated individuals and require DODD to complete a report on the process before any movements to new residential settings from facilities slated for closure.

"In an effort to ensure the health and safety of all individuals moving from state developmental centers slated for closure regardless of their disability, we urge this committee to take legislative action to track individuals since the announced closures and moving forward," he said.

DODD's report, he added, should include: any deaths that have occurred in the moves; reports of significant bodily injury and/or MUIs; hospital, mental health facility or nursing home stays; detainment or arrest by law enforcement; the pattern of movement from setting to setting; and any other information the legislature deems necessary.

Rep. Sears questioned halting the process, saying a report could be requested while it ensued. Mr. Blanton said the agency's information about the transition has been "sketchy" and too often reports of problems are filed with no follow-up.

Rep. Sears responded that some information is already "readily available" with privacy protections.

Gary Smith, director of finance and operations for Licking County Board of DD, asked the panel to consider amendments to the bill that he said would "provide flexibility to county boards of developmental disabilities by stabilizing and streamlining county DD levy funding streams."

The proposed amendments would allow boards to: allow boards to change the length of existing levies to be no longer than 10 years or as a continuing levy without running the proposal as a new levy request; and; change existing levy language without requiring boards to ask voters in their counties to approve new levies to continue funding existing services.

"It is important to note that neither of these requests require any state funds to implement" as they are budget-neutral, he said. "County boards simply seek a practical remedy that will ensure long-term funding to support a system that has been the backbone of services and supports for people with developmental disabilities for the past half a century."

Peter Van Runkle, executive director of the Ohio Centers for Intellectual Disabilities under the Ohio Health Care Association, thanked the committee for including several of the group's suggestions in the substitute version of the bill.

Those include the funding changes related to the downsizing of facilities, three-month cost reports and delegated nursing, he said.

On the latter point, he said, "Delegated nursing has been utilized since 1999 in many settings serving people with intellectual and developmental disabilities, including ICFs/IID with 16 or fewer beds. In addition, starting in 2005, certified medication aides have administered medications, subject to limitations and under nurse delegation, in skilled nursing centers and assisted living communities."

Barb Nash, a registered nurse and deputy executive officer of government relations and member engagement for the Ohio Nurses Association, raised concerns about the nursing amendment.

"Through a very preliminary conversation with a nursing home association representative, the reason they cite a need for this amendment is because they are having difficulty obtaining skilled registered nurses to work in intermediate care facilities for individuals with intellectual disabilities. It is our initial understanding that ICF/IID facilities would like to fill this nursing shortage gap with more MR/DD personnel and certified medication aides," she said.

"With all due respect to these two groups of health care workers, their role does not replace that of registered nurses. According to the Ohio Board of Nursing 2015 Annual Report, there are only 184 medication aides certified to practice in Ohio. By expanding their practice to ICF/IID facilities, it does not fix the problem of obtaining skilled registered nurses, nor can MR/DD personnel and medication aides replace the role of registered nurses."

HB APPROPRIATIONS ADJUSTMENTS (Smith, R.) To provide authorization and conditions for the **547** operation of state programs and to make appropriations. (**CONTINUED (See separate story)**; Informal Hearing-Sponsor/OBM testimony)

SB CAPITAL APPROPRIATIONS (Oelslager, S.) To make capital appropriations and changes to the law **310** governing capital projects for the biennium ending June 30, 2018. (**REPORTED (No testimony; Set for Wednesday, May 4 House calendar)**; 2nd Hearing-All testimony-Possible vote)

The bill was reported unanimously after Rep. Cera proposed an amendment to provide that 85% of brownfields funds be provided in grants and prohibit JobsOhio from denying historical preservation projects. The amendment was tabled along party lines.

Rep. Driehaus commented that the committee's concurrent consideration Tuesday of an "OBM MBR" bill that also contains capital bill adjustments (see separate story) "concerns me by way of process."

Written testimony in support of the bill was provided by the University of Cincinnati and the Ohio Association of Community Colleges.

SB TRANSPORTATION FUNDING (Manning, G.) To make supplemental appropriations related to **315** transportation for the biennium beginning July 1, 2015, and ending June 30, 2017, and to declare an emergency. (**CONTINUED**; 1st Hearing-Sponsor-Pending referral)

Sponsor Sen. Manning and Department of Transportation Director Jerry Wray provided proponent testimony that followed along the lines of the lawmakers' and agency's presentations in the Senate.

They explained that the bill includes three main components that involve about \$684 million in funding that was originally sought through Controlling Board action. (See Gongwer Ohio Report, April 20, 2016)

Reps. Grossman and Ramos questioned the funding levels for public transit in the bill.

Mr. Wray said the state is limited under the Ohio Constitution as to amount that can go to public transit but is working with the regional groups on solutions ahead of the next biennial budget. "We're very sympathetic and we want to be helpful," he said.

The state is not leaving matching federal funds on the table, the director said.

Rep. Reece, president of the Ohio Legislative Black Caucus, asked the director what the agency is doing to increase minority participation in contracting in the wake of a disparity report conducted with the goal of getting a waiver to provide flexibility in meeting federal goals. (See Gongwer Ohio Report, April 18, 2016)

The Democrat said she was hesitant to endorse the funding in the bill or the emergency clause without seeing more efforts toward evening the playing field for minority-owned businesses. She suggested a pilot program of some kind.

Mr. Wray explained the process of seeking the federal waiver, which would be required to deploy certain initiatives given the requirements for projects that use any federal funds. He said Ohio made its request two years ago and California has been waiting three years on a similar waiver proposal.

The state used some of its own initiatives in the Opportunity Corridor project in Cleveland and was only able to do so because it was entirely state funded, he said.

The state doesn't need a pilot program under its MBE initiative, the director said, rather the agency "just needs to keep doing better." He added, however that the state could look for

Regarding the emergency clause, Mr. Wray said, "If we delay these projects then we're delaying opportunity for all Ohioans" and losing money in terms of inflationary costs.

Responding to a question from Rep. Dovilla, a self-described reformed skeptic of the use of turnpike bonds to finance state highway projects, the ODOT director said that since Gov. Kasich took office the state has spent \$12.5 billion on roadwork and much of that would not have been possible without using the OTIC bonds.

Rep. Cera, noting the increased traffic on I-70, asked about constructing a third lane and the process that would entail.

Mr. Wray said any project over \$12 million that adds capacity goes through TRAC and observed that the federal government in recent years has shown a "reluctance to provide more revenue" for such projects.

Responding to a question from Rep. Driehaus, the ODOT director said the projects identified for expediting under the funding plan were chosen because of their proximity to the turnpike and the use of OTIC bonds to fund them.


"That does not mean we're spiting other parts of the state," he said.

Subscribers please note: Testimony for the hearing can be viewed at [this link](#) under May 3.

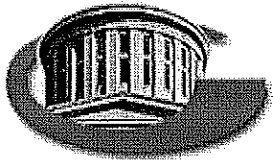
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Legislative Committees

Senate Civil Justice (Committee Record) (Chr. Bacon, K., 466-8064), Finance Hearing Rm., 9 a.m.

SB BICYCLE HELMETS (Jones, S.) To generally require any person under sixteen years of age to wear a helmet while on a bicycle, to require bicycle rental businesses to inform any person under sixteen years of age who rents a bicycle of this requirement and provide helmet rentals, and to provide limited civil immunity for bicycle rental businesses that comply with these requirements. (4th Hearing-All testimony)

SB LIFE-SUSTAINING TREATMENT (Lehner, P.) To establish procedures for the use of medical orders for life-sustaining treatment and to make changes to the laws governing DNR identification and orders. (6th Hearing-All testimony-Possible amendments & vote)

SB CHILD SUPPORT (Jones, S.) To make changes to the laws governing child support. (3rd Hearing-262Opponent)

SB VOTING HOURS (Seitz, B.) To specify the conditions under which a court may order that a polling place be kept open for extended hours on the day of an election and to require a person who votes pursuant to such an order to cast a provisional ballot. (3rd Hearing-All testimony-Possible vote)

SB PERRY COUNTY COURTS (Hottinger, J.) To create the Perry County Municipal Court in New Lexington on January 1, 2017, to establish one full-time judgeship in that court, to provide for the nomination of the judge by petition only, to abolish the Perry County County Court on that date, to designate the Perry County Clerk of Courts as the clerk of the Perry County Municipal Court, and to provide for the election for the Perry County Municipal Court of one full-time judge in 2017. (3rd Hearing-All testimony-Possible vote)

SB PREGNANCY ACCOMMODATIONS (Jones, S., Cafaro, C.) To enact the "Pregnancy Reasonable Accommodation Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding. (2nd Hearing-Proponent)

Senate Health & Human Services (Committee Record) (Chr. Jones, S., 466-9737), North Hearing Rm., 9 a.m.

HB DRUG SALES (Rezabek, J.) To prohibit the over-the counter sale, without a prescription, of dextromethorphan to a person who is under 18 years of age. (4th Hearing-All testimony-Possible vote)

HB WEEK DESIGNATION (Blessing, L.) To designate the first week of December as "Crohn's and Colitis Awareness Week." (3rd Hearing-All testimony-Possible vote)

HB ADULT PROTECTIVE SERVICES (Retherford, W., Dovilla, M.) To revise the laws governing the provision of adult protective services. (5th Hearing-All testimony)

SB HOSPITAL CARE (Lehner, P.) To provide for the designation of a lay person to provide after-care to a hospital inpatient and participate in discharge planning. (1st Hearing-Sponsor)

SB PSYCHOTROPIC DRUGS (Seitz, B.) To authorize certain psychologists to prescribe psychotropic and other drugs for the treatment of drug addiction and mental illness. (1st Hearing-Sponsor)

HB AWARENESS MONTH (Baker, N.) To designate March as "Fibromuscular Dysplasia Awareness Month." (1st Hearing-Sponsor)

SB DIABETES (Hite, C.) To require state agencies to assess the incidence of diabetes in Ohio, to establish 287 goals and plans to reduce that incidence, and to submit biennial reports with findings and recommendations for fiscal and legislative policies on diabetes prevention, treatment, and management. (2nd Hearing-Proponent)

SB FLU VACCINE (Patton, T.) To require the Ohio Department of Health to prepare an influenza vaccine 311 information sheet pertaining to older adults. (2nd Hearing-Proponent)

HBEPINEPHRINE ACCESS (Hagan, C.) To permit epinephrine autoinjectors for which no prescriptions have 200 been written to be stored and accessed for use in case of emergency. (2nd Hearing-Proponent)

HB AWARENESS MONTH (Barnes, J.) To designate January as "Thyroid Health Awareness Month." (3rd 219 Hearing-All testimony)

HB CHEMICAL DEPENDENCY (Sprague, R.) Regarding the practices of chemical dependency counseling 230 and prevention services. (3rd Hearing-All testimony)

House Health & Aging (Committee Record) (Chr. Gonzales, A., 466-4847), Rm. 116, 9:30 a.m.

- 1st Hearing-Sponsor-Bill from Rep. Schuring on CRNA Perioperative Ordering

HB MEDICAID DRUG COVERAGE (Sprague, R., Antonio, N.) To prohibit certain health care plans and the 248 Medicaid program from denying coverage for opioid analgesic drugs with abuse-deterrent technology based solely on cost. (6th Hearing-All testimony-Possible vote)

HB DRUG INJECTIONS (LaTourette, S.) To authorize a pharmacist to administer by injection certain 421 prescribed drugs. (4th Hearing-All testimony-Possible substitute)

HB BIOLOGICAL PRODUCTS (Huffman, S., Pelanda, D.) Regarding the regulation of biological products 505 and the substitution of interchangeable biological products when dispensed by pharmacists. (3rd Hearing-All testimony-Possible amendments & vote)

HB PALLIATIVE CARE FACILITIES (Schuring, K.) Regarding palliative care facilities. (3rd Hearing-All 470 testimony)

HB PARKINSON'S REGISTRY (Grossman, C., Schuring, K.) To establish the Ohio Parkinson's Disease and 499 Movement Disorder Registry. (2nd Hearing-Proponent)

HB RETIREMENT SYSTEMS (Schuring, K., Ramos, D.) To revise the law governing the state's public 520 retirement systems. (1st Hearing-Sponsor)

HB TRAUMA SYSTEM (Grossman, C., Huffman, S.) To establish the State Trauma Board in the Ohio 261 Department of Health, to require that facilities that provide trauma care be designated by the Board as level I, II, or III trauma centers, and to provide that the amendment by this act to section 101.82 of the Revised Code terminates on December 31, 2016. (7th Hearing-All testimony)

Senate Ways & Means (Committee Record) (Chr. Peterson, B., 466-8156), South Hearing Rm., 9:30 a.m.

SB TAX REFUNDS (Hughes, J.) To allow taxpayers to contribute all or a portion of their income tax refunds to 219a Metropark. (1st Hearing-Sponsor)

SB SALES TAX REFUNDS (Patton, T.) To allow vendors to deduct or apply for a refund of sales tax remitted 244 for bad debts on private label credit cards used to make purchases from the vendor. (1st Hearing-Sponsor)

HB DEVELOPMENT ZONES (Schuring, K.) To revise the law governing the creation and operation of joint 182 economic development districts (JEDDs) and enterprise zones. (2nd Hearing-Proponent)

HB TAX EXEMPTION (Schaffer, T., Retherford, W.) To exempt the sale of natural gas by a municipal gas 390 company from the sales and use tax. (2nd Hearing-Proponent)

HB TAX LAWS (Green, D.) To extend the deadline for filing an application for the homestead exemption or 2 166 1/2% property tax rollback to the end of the tax year, to require that auditors certify Local Government Fund

- allocations to subdivisions by regular or electronic, rather than certified mail, to require that notices of appeal from a decision of the Board of Tax Appeals originating with a county board of revision be filed with that board and the county auditor, to clarify the effect of certain certifications related to the repealed personal property tax, and to repeal laws requiring county auditors to issue permits for traveling shows, issue licenses for new merchandise public auctions, certify the annual state tax interest rate to local courts. (4th Hearing-All testimony-Possible amendments & vote)

Senate Transportation, Commerce & Labor (Committee Record) (Chr. LaRose, F., 466-4823), North Hearing Rm., 10:15 a.m.

HB PROFESSIONAL ENGINEERS (Landis, A., Blessing, L.) To require professional engineers to complete 236 continuing professional development hours in professional ethics or rules relevant to engineering or surveying practices. (2nd Hearing-Proponent)

SB NONCOMPETE AGREEMENTS (Williams, S.) To prohibit the use of noncompete provisions in 228 employment contracts in the broadcasting industry. (1st Hearing-Sponsor)

Senate Criminal Justice (Committee Record) (Chr. Eklund, J., 644-7718), North Hearing Rm., 11:15 a.m.

HBMURDER SENTENCING (Maag, R.) To change the sentence for aggravated murder. (1st Hearing-57 Sponsor)

HBLICENSE SUSPENSIONS (Baker, N., Manning, N.) To modify the law governing the termination or 300 modification of a lifetime driver's license suspension or a class two suspension that exceeds fifteen years and to specify that a class one driver's license suspension for a specified aggravated vehicular homicide offense begins upon the offender's release from prison. (3rd Hearing-All testimony)

SB CASINO OPERATORS (Seitz, B.) To specify that the criminal penalty related to casino operators and 265 employees participating in casino gaming applies at their casino facility or an affiliated casino facility. (2nd Hearing-Proponent)

HBFAILURE TO STOP (Hill, B.) To increase the penalty for failure to stop after a traffic accident that results 110 in the death of a person or serious physical harm to a person and to name this act Brandon's Law. (9th Hearing-All testimony-Possible amendments & vote)

Senate Rules & Reference (Committee Record) (Chr. Faber, K., 466-7584), Majority Conf. Rm., 12 p.m.

House Session (Chr. Rosenberger, C., 466-3357), House Chamber, 1:30 p.m.

Senate Session (Chr. Faber, K., 466-4900), Senate Chamber, 1:30 p.m.

House Rules & Reference (Committee Record) (Chr. Amstutz, R., 466-1474), Rm. 119, 2 p.m. or after session

Senate Government Oversight & Reform (Committee Record) (Chr. Coley, B., 466-8072), Finance Hearing Rm., 2:30 p.m. or after session

- 1st Hearing-Proponent on bill from Sen. Faber on public records-Pending referral

SB FETAL REMAINS (Uecker, J.) Regarding final disposition of fetal remains from abortions. (1st Hearing-254 Sponsor)

SB ATTORNEY GENERAL (Bacon, K.) To make various changes to the laws governing the duties and 227 functions of the Attorney General. (5th Hearing-All testimony-Possible amendments & vote)

SB PUBLIC RECORDS (Faber, K.) To create a procedure within the Court of Claims to hear complaints 321 alleging a denial of access to public records and to modify the circumstances under which a person who files a mandamus action seeking the release of public records may be awarded court costs and attorney's fees. (1st Hearing-Pending referral)

SB NATURAL RESOURCES (Balderson, T.) To revise specified laws relating to natural resources. (4th

293Hearing-All testimony-Possible amendments & vote)

HB CONTRACTOR LABOR (Maag, R.) To prohibit a public authority from requiring a contractor to employ a **180** certain percentage of individuals from the geographic area of the public authority for the construction or professional design of a public improvement. (2nd Hearing-All testimony-Possible amendments & vote)

House Select Committee on Medical Marijuana (Chr. Schuring, K., 752-2438), Rm. 313, 3 p.m.

HB MEDICAL MARIJUANA (Huffman, S.) To authorize the use of marijuana for medical purposes and to **523** establish the Medical Marijuana Control Program. (8th Hearing-All testimony)

Agency Calendar

Real Estate Commission, Division of Real Estate and Professional Licensing, 77 South High Street, 22nd Floor, Columbus, 9 a.m.

State Personnel Board of Review, 65 E. State St., 12th Fl., Columbus, 9:30 a.m.

Public Utilities Commission of Ohio, 180 E. Broad St., 11th Fl., Columbus, 1:30 p.m.

Event Planner

Midwest Dairy Foods Association Legislative Breakfast, Museum Gallery, Statehouse, Columbus, 7:30 a.m.

Children's Defense Fund-Ohio news conference on report measuring the well-being of children living in Ohio's Appalachian region, Ladies Gallery, Statehouse, Columbus, 10 a.m.

Rep. John Rogers (D-Mentor-on-the-Lake) and Rep. Denise Driehaus (D-Cincinnati) news conference on plan to rebuild Ohio infrastructure, Harding Senate Press Rm., Statehouse, Columbus, 10 a.m.

OHROC Building Fund fundraiser, Local Cantina - Brewery District, 743 S. High Street, Columbus, 5 p.m., (Chair: \$10,000; Sponsor: \$5,000; Host: \$1,000; Guest: \$500 to OHROC Building Fund)

Rep. John Patterson (D-Jefferson) and Rep. Michael Sheehy (D-Oregon) fundraiser, The Chintz Room, 121 S. High St., Columbus, 5 p.m., (Sponsor: \$1,000, \$500, \$250 to Committee to Elect John Patterson and/or Committee to Elect Michael Sheehy)

Sen. Bill Beagle (R-Tipp City) fundraiser, Athletic Club of Columbus, Gold Room, 136 East Broad Street, Columbus, 5 p.m., (Host \$2,500; Chair \$1,000; Sponsor \$500; Individual \$350 to Citizens for Bill Beagle)

17 S. High St., Suite 630

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Gongwer News Service Ohio Media Clips

1 message

Gongwer News Service <gongwerreports@gongwer-oh.com>

Wed, May 4, 2016 at 8:27 AM

To: sml@sarahlatourette.com

**GONGWER** Ohio
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Ohio News & Opinion For May 4, 2016

News

Ohio delegates pledge to stick with John Kasich (Associated Press, 5/4/2016)

Donald Trump romps, Ted Cruz drops, but John Kasich.... (Cincinnati Enquirer, 5/4/2016)

Kasich pondered dropping out Wednesday (Cincinnati Enquirer, 5/4/2016)

Obama makes the ultimate John Kasich joke (Cincinnati Enquirer, 5/4/2016)

Donald Trump leaves Ted Cruz and John Kasich in the dust: 5 Indiana primary takeaways (Cleveland Plain Dealer, 5/4/2016)

Project labor agreements targeted in bill banning local hiring quotas (Cleveland Plain Dealer, 5/4/2016)

Ted Cruz drops out of GOP presidential race, GOP chairman calls Donald Trump "presumptive nominee" (Cleveland Plain Dealer, 5/4/2016)

Ads urge Portman to allow Supreme Court vote (Columbus Dispatch, 5/4/2016)

Bill puts project labor agreements in crosshairs (Columbus Dispatch, 5/4/2016)

Cutting Ohio farmers' property taxes could cost homeowners, schools millions (Columbus Dispatch, 5/4/2016)

Fentanyl causing new wave of overdose deaths in Ohio (Columbus Dispatch, 5/4/2016)

Ohio's first female governor appointed to state Board of Education (Columbus Dispatch, 5/4/2016)

Ohioans could register to vote online, but not until 2017 (Columbus Dispatch, 5/4/2016)

Strickland bashes Kasich's Medicaid plan (Columbus Dispatch, 5/4/2016)

Toking nixed, vaping OK in Ohio House medical-marijuana bill (Columbus Dispatch, 5/4/2016)

Will Ohio see a transgender bathroom law? Not likely (Columbus Dispatch, 5/4/2016)

Republican race down to Trump and Ohio Gov. John Kasich (Dayton Daily News, 5/4/2016)

Kasich vows to plow ahead in race with eye toward July (Toledo Blade, 5/4/2016)

Kasich will stay in GOP nomination race (Toledo Blade, 5/4/2016)

Editorials

Build a better bus system, and they will get to work (Akron Beacon Journal, 5/4/2016)

Commentary: Kasich is still Trump's deadliest weapon (Canton Repository, 5/4/2016)

Ohio failing murder victims' families (Cincinnati Enquirer, 5/4/2016)

Despite Donald Trump's Indiana win, there are not enough ignoramuses to make him president: Brent Larkin (Cleveland Plain Dealer, 5/4/2016)

Feds should reject Ohio Medicaid waiver that's really a 'Less-Healthy Ohio' plan: editorial (Cleveland Plain Dealer, 5/4/2016)

A sicker Ohio (Toledo Blade, 5/4/2016)

Humbling complexities of suicide prevention (Toledo Blade, 5/4/2016)

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Senate Floor Report

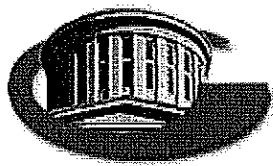
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Senate Activity for Wednesday, May 4, 2016

PASSED

HB PRESCRIPTION REFILLS (Brown, T., Ginter, T.) Regarding insurance and Medicaid coverage of medication synchronization, professional discipline for actions involving dangerous drugs, consult agreements between pharmacists and physicians, pharmacists dispensing or selling drugs without a prescription, prescriptive authority of physician assistants, and acceptance of a certificate of need application for a new nursing home.
33-0

HB WORKERS COMPENSATION (Henne, M., McColley, R.) To eliminate the minimum number of employees required for a private sector employer or a board of county commissioners with respect to the construction of a sports facility to obtain self-insuring status under the Workers' Compensation Law and to allow a state fund employer to have a workers' compensation claim that is likely to be subrogated by a third party paid from the surplus fund account in the state insurance fund rather than charged to the employer's experience.
33-0

SB LIFE-SUSTAINING TREATMENT (Lehner, P.) To establish procedures for the use of medical orders for life-sustaining treatment and to make changes to the laws governing DNR identification and orders.
30-3; Earlier REPORTED-AMENDED

SB LICENSE PLATE (Hughes, J.) To create the "Ohio Nurses Association" license plate.
23333-0



SB PROPERTY TAXES (Beagle, B., Coley, B.) To exempt from property tax the increased value of property on which 235 industrial or commercial development is planned until the completion of new commercial or industrial facilities at the property.
22-11

SB MALNUTRITION (Manning, G.) To create the Malnutrition Prevention Commission to study malnutrition among older 245 adults.
33-0

SB PERRY COUNTY COURTS (Hottinger, J.) To create the Perry County Municipal Court in New Lexington on January 2991, 2017, to establish one full-time judgeship in that court, to provide for the nomination of the judge by petition only, to abolish the Perry County County Court on that date, to designate the Perry County Clerk of Courts as the clerk of the Perry County Municipal Court, and to provide for the election for the Perry County Municipal Court of one full-time judge in 2017.
33-0; Earlier REPORTED-AMENDED (No testimony)

SENATE REFUSES TO CONCUR IN HOUSE AMENDMENTS

SB CONTRACTOR LABOR (Uecker, J.) To prohibit a public authority from requiring a contractor to employ a certain 152 percentage of individuals from the geographic area of the public authority for the construction or professional design of a public improvement and to prohibit a state agency or state institution of higher education from requiring a contractor to or prohibiting a contractor from entering into certain labor agreements as a condition of performing or bidding on a public improvement project.
8-25

ADOPTED

SCR 21 SMART CITY (Bacon, K., Tavares, C.) Urges the U.S. Department of Transportation to designate Columbus as the nation's first "Smart City."
33-0


REFERRED

Civil Justice


SB 323 CHILD ABUSE REPORTING (Jones, S.) To make changes in the child abuse and neglect reporting law.

Education


HCR 32 EDUCATION ACT (McColley, R.) To urge the United States Congress to pass the ADA Education and Reform

 Act of 2015.


Energy & Natural Resources


SB RENEWABLE ENERGY (Jordan, K.) To repeal the requirement that electric distribution utilities and electric services 325 companies provide 12.5% of their retail power supplies from qualifying renewable energy resources by 2027, to  repeal energy efficiency and peak demand reduction requirements for electric distribution utilities, and to modify the topics included in the Energy Mandates Study Committee report.

Health & Human Services

SB NURSE RATIOS (Skindell, M.) To establish minimum ratios of direct-care registered nurses to patients in hospitals, 324 to specify rights of registered nurses working in hospitals, and to prohibit retaliatory actions by hospitals against  registered nurses.

State & Local Government

HB COMMUNITY EVENT FUNDING (Brenner, A.) To authorize boards of township trustees and boards of park 361 commissioners to expend funds for the public purpose of presenting community events in their parks and at other  recreational facilities.

SB POLICE TRAINING (Hite, C.) To require the Ohio peace officer training commission to develop and conduct a chief of 322 police training course for newly appointed chiefs of police appointed on or after January 1, 2017, and to require newly  appointed chiefs of police of villages, cities, and townships to attend the training course within six months of appointment as a chief of police.

Click the  after a bill number to track that bill and create email alerts on activity.

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House Floor Report

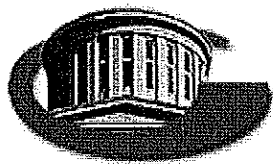
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House Activity for Wednesday, May 4, 2016

INTRODUCED

HB STEM DEGREE LOANS (Patterson, J.) To create the STEM Degree Loan Repayment Program and to make an **549** appropriation. En. 3333.27.



HB OSFC PROGRAMS (Arndt, S.) To require the Ohio School Facilities Commission to establish a program assisting **550** school districts in purchasing technology and making physical alterations to improve technology infrastructure and school safety and security. En. 3318.39.



PASSED

SB AGRITOURISM (Jones, S., Peterson, B.) To limit the authority of a board of county commissioners or board of **75** township trustees to prohibit agritourism through zoning, to apply current agricultural use valuation to land used for agritourism for property tax purposes, and to establish immunity in a civil action for agritourism providers. 90-1 (Patmon)



SB CONTRACTOR LABOR (Uecker, J.) To prohibit a public authority from requiring a contractor to employ a certain **152**percentage of individuals from the geographic area of the public authority for the construction or professional design of a public improvement and to prohibit a state agency or state institution of higher education from requiring a contractor to or prohibiting a contractor from entering into certain labor agreements as a condition of performing or bidding on a public improvement project. 51-42



SB CAPITAL APPROPRIATIONS (Oelslager, S.) To make capital appropriations and changes to the law governing 310 capital projects for the biennium ending June 30, 2018.
89-1 (Zeltwanger)


HB TRUANCY (Rezabek, J., Hayes, B.) With regard to habitual and chronic truancy and compulsory school attendance.
41092-1 (Buchy)

HB AUTO TECHNICIANS (Antani, N., Reineke, B.) Regarding employers of automotive technicians and motor vehicle 429 technicians participating in the Incumbent Workforce Training Voucher Program.
86-4

HB TAX EXEMPTION (Smith, R.) To specifically exempt digital advertising services from sales and use tax.
46693-0

HOUSE CONCURS IN SENATE AMENDMENTS

HB AUTISM SCHOLARSHIPS (Blessing, L., Rezabek, J.) To permit the temporary, legal, or permanent custodian of a 299 qualified child to apply for an Autism Scholarship and to revise the law regarding the testing and graduation requirements for students attending a chartered nonpublic school.
89-0

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Gongwer News Service Ohio Media Clips

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Thu, May 5, 2016 at 8:40 AM

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Ohio News & Opinion For May 5, 2016

News

High court: Ohio can retroactively alter funding for schools (Associated Press, 5/5/2016)

Ohio governor issues emergency order to outlaw new drug (Associated Press, 5/5/2016)

6 key moments of John Kasich's campaign (Cincinnati Enquirer, 5/5/2016)

Best reactions to John Kasich dropping out (Cincinnati Enquirer, 5/5/2016)

John Kasich's presidential run: Was it worth it? (Cincinnati Enquirer, 5/5/2016)

An emotional John Kasich withdraws from presidential race (Cleveland Plain Dealer, 5/5/2016)

Anti-discrimination, religious liberty paired in bill from Ohio GOP lawmaker (Cleveland Plain Dealer, 5/5/2016)

Government bodies cannot conduct public business in private via email, Ohio Supreme Court rules (Cleveland Plain Dealer, 5/5/2016)

How Donald Trump's nomination could affect Ohio's U.S. Senate race: 5 takeaways (Cleveland Plain Dealer, 5/5/2016)

John Kasich comes home: Ohio Politics Roundup (Cleveland Plain Dealer, 5/5/2016)

John Kasich set out to build a new Republican Party; Donald Trump beat him to it (Cleveland Plain Dealer, 5/5/2016)

Ohio Senate rejects House changes to labor-related bill (Cleveland Plain Dealer, 5/5/2016)

Sherrod Brown to protest Medicaid fee plan in Cleveland: What to watch for Thursday (Cleveland Plain Dealer, 5/5/2016)

Smoking, high-potency pot outlawed in Ohio's medical marijuana bill: What you need to know (Cleveland Plain Dealer, 5/5/2016)

'The people of our country changed me,' Kasich says as he ends campaign (Columbus Dispatch, 5/5/2016)

Advocates for pregnancy bill explain need for employee protections (Columbus Dispatch, 5/5/2016)

Bill to fix truancy, not punish it, passes Ohio House (Columbus Dispatch, 5/5/2016)

Despite objections, Ohio Senate passes bill allowing more end-of-life care instruction (Columbus Dispatch, 5/5/2016)

Ohio Politics Now: After saying he was in, it looks like John Kasich is out (Columbus Dispatch, 5/5/2016)

Ohio Senate rejects House ban on project labor pacts (Columbus Dispatch, 5/5/2016)

Ohio state agency seizing last large group of exotic wild animals (Columbus Dispatch, 5/5/2016)

What happened with John Kasich's campaign (Columbus Dispatch, 5/5/2016)

John Kasich ends presidential campaign; Trump to vet him for VP (Dayton Daily News, 5/5/2016)

Kasich ends campaign, is mum about support for Trump (Dayton Daily News, 5/5/2016)

What's next for John Kasich? Here are 6 possibilities (Dayton Daily News, 5/5/2016)

High court rules against TPS (Toledo Blade, 5/5/2016)

Kasich gives up, leaving GOP crown to Trump (Toledo Blade, 5/5/2016)

Ohio House passes \$2.6B capital budget (Toledo Blade, 5/5/2016)

Kasich ends long-shot bid; Valley GOP leaders hope billionaire softens style, builds trust (Youngstown Vindicator, 5/5/2016)

Editorials

End of the Kasich candidacy (Akron Beacon Journal, 5/5/2016)

Will Trump stump Portman? (Akron Beacon Journal, 5/5/2016)

Editorial: Kasich exits race on high road (Canton Repository, 5/5/2016)

Farewell and welcome, John Kasich (Cincinnati Enquirer, 5/5/2016)

John Kasich's presidential run: Was it worth it? (Cincinnati Enquirer, 5/5/2016)

Feds should reject Ohio Medicaid waiver that's really a 'Less-Healthy Ohio' plan: editorial (Cleveland Plain Dealer, 5/5/2016)

Kasich relinquishes White House dream (Columbus Dispatch, 5/5/2016)

What Kasich never figured out (Toledo Blade, 5/5/2016)

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ALEC Digital Exchange: Prince's death taxes, Labor Dept overreach

1 message

American Legislative Exchange Council <avarner@alec.org>

Thu, May 5, 2016 at 12:00 PM

To: latoursm@gmail.com



Digital Exchange



ALEC is en route to Pittsburgh

ALEC staff are preparing for tomorrow's Spring Task Force Summit. Request responses may be slightly delayed.

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Proud to stand w/ free-market groups against regulatory overreach in labor department's fiduciary rule <https://t.co/BIUbDSNH8T> #ALECIdeas



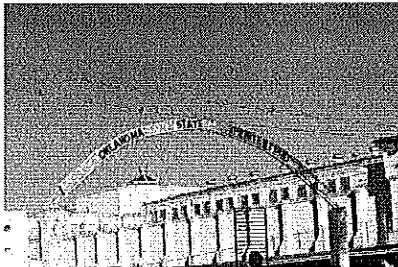
More Than Half of Prince's Estate May Go Toward Paying Death Tax Bill

There is more sad news at Paisley Park: although Prince fiercely protected his successful music career, more than half of his estate may go to the tax man instead of his loved ones. Since Prince did not leave a will, [...Read More](#)



Digital Health Continues to Transform Healthcare

Digital health is an emerging sector of the healthcare industry, not only contributing to the opportunity for people to better manage their own health, but also to improve the quality of care through mobile connectivity. With the integration of data and the possibility of [...Read More](#)



Oklahoma Passes Four Criminal Justice Reform Measures

Oklahoma policymakers are well aware of the challenges facing the Sooner State's criminal justice system, which include laying claim to the [second-highest incarceration rate in the country](#). Legislators have concentrated on passing reforms over the last several months, and advocacy groups [...Read More](#)

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Insurance Committee: Sub HB 27

1 message

Josh.Miller@ohiohouse.gov <Josh.Miller@ohiohouse.gov>

Tue, May 9, 2017 at 4:19 PM

To: "mike@boordhenne.com" <mike@boordhenne.com>, "rep.brenner@brenner4ohio.com" <rep.brenner@brenner4ohio.com>, "billdeanforohio@gmail.com" <billdeanforohio@gmail.com>, "anne19gonzales@gmail.com" <anne19gonzales@gmail.com>, "shuffman39@hotmail.com" <shuffman39@hotmail.com>, "latoursm@gmail.com" <latoursm@gmail.com>, "wesretherford@hotmail.com" <wesretherford@hotmail.com>, "john4congress@aol.com" <john4congress@aol.com>, "repashford44@gmail.com" <repashford44@gmail.com>, "ksboggs@gmail.com" <ksboggs@gmail.com>, "h91842@gmail.com" <h91842@gmail.com>

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Dear Insurance Committee Members,

Please find attached the -5 sub bill of HB 27 which will be considered in committee tomorrow morning. Please review and let our office know if you have any questions.

Sincerely,


Joshua Miller

Legislative Aide- Representative Tom Brinkman Jr.

House District 27

Office: 614-644-6886

Email: josh.miller@ohiohouse.gov

 **Sub_HB27-5.pdf**
321K

132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 27

A B I L L

To amend sections 742.38, 2743.02, 2744.02, 4113.21, 1
4121.125, 4121.44, 4123.01, 4123.29, 4123.343, 2
4123.511, 4123.512, 4123.53, 4123.54, 4123.56, 3
4123.57, 4123.66, 4123.68, 4123.71, 4123.84, 4
4125.07, 4167.01, 4167.02, and 4167.10, to enact 5
sections 1.481, 2307.82, and 4123.513, and to 6
repeal sections 4123.72 and 4167.19 of the Revised 7
Code to make changes to the Workers' Compensation 8
Law, to prohibit a public employer from requiring 9
an employee to pay for a medical examination as a 10
condition of continued employment, to prohibit 11
state agencies from taking actions that have 12
retrospective effects, to make appropriations for 13
the Bureau of Workers' Compensation for the 14
biennium beginning July 1, 2017, and ending June 15
30, 2019, and to provide authorization and 16
conditions for the operation of the Bureau's 17
programs. 18

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 101.01. That sections 742.38, 2743.02, 2744.02, 19
4113.21, 4121.125, 4121.44, 4123.01, 4123.29, 4123.343, 4123.511, 20
4123.512, 4123.53, 4123.54, 4123.56, 4123.57, 4123.66, 4123.68, 21
4123.71, 4123.84, 4125.07, 4167.01, 4167.02, and 4167.10 be 22

amended and sections 1.481, 2307.82, and 4123.513 of the Revised 23
Code be enacted to read as follows: 24

Sec. 1.481. A state agency shall not adopt a rule, or an 25
amendment or rescission of a rule, or take any other 26
quasi-legislative or quasi-judicial action that has a substantive 27
or procedural retrospective effect unless the general assembly 28
expressly has authorized rulemaking or other quasi-legislative or 29
quasi-judicial action that has such an effect. 30

Sec. 742.38. (A) (1) The board of trustees of the Ohio police 31
and fire pension fund shall adopt rules establishing minimum 32
medical testing and diagnostic standards or procedures to be 33
incorporated into physical examinations administered by physicians 34
to prospective members of the fund. The standards or procedures 35
shall include diagnosis and evaluation of the existence of any 36
heart disease, cardiovascular disease, or respiratory disease. The 37
rules shall specify the form of the physician's report and the 38
information to be included in it. 39

The board shall notify all employers of the establishment of 40
the minimum standards or procedures and shall include with the 41
notice a copy of the standards or procedures. The board shall 42
notify all employers of any changes made to the standards or 43
procedures. Once the standards or procedures take effect, 44
employers shall cause each prospective member of the fund to 45
submit to a physical examination that incorporates the standards 46
or procedures. 47

(2) Division (A) (2) of this section applies to an employee 48
who becomes a member of the fund on or after the date the minimum 49
standards or procedures described in division (A) (1) of this 50
section take effect. For each employee described in division 51
(A) (2) of this section, the employer shall forward to the board a 52

copy of the physician's report of a physical examination that 53
incorporates the standards or procedures described in division 54
(A) (1) of this section. If an employer fails to forward the report 55
in the form required by the board on or before the date that is 56
sixty days after the employee becomes a member of the fund, the 57
board shall assess against the employer a penalty determined under 58
section 742.353 of the Revised Code. 59

(B) Application for a disability benefit may be made by a 60
member of the fund or, if the member is incapacitated as defined 61
in rules adopted by the board, by a person acting on the member's 62
behalf. Not later than fourteen days after receiving an 63
application for a disability benefit from a member or a person 64
acting on behalf of a member, the board shall notify the member's 65
employer that an application has been filed. The notice shall 66
state the member's position or rank. Not later than twenty-eight 67
days after receiving the notice or filing an application on behalf 68
of a member, the employer shall forward to the board a statement 69
certifying the member's job description and any other information 70
required by the board to process the application. 71

If the member applying for a disability benefit becomes a 72
member of the fund prior to the date the minimum standards or 73
procedures described in division (A) (1) of this section take 74
effect, the board may request from the member's employer a copy of 75
the physician's report of the member's physical examination taken 76
on entry into the police or fire department or, if the employer 77
does not have a copy of the report, a written statement certifying 78
that the employer does not have a copy of the report. If an 79
employer fails to forward the report or statement in the form 80
required by the board on or before the date that is twenty-eight 81
days after the date of the request, the board shall assess against 82
the employer a penalty determined under section 742.353 of the 83
Revised Code. The board shall maintain the information submitted 84

under this division and division (A) (2) of this section in the 85
member's file. 86

(C) For purposes of determining under division (D) of this 87
section whether a member of the fund is disabled, the board shall 88
adopt rules establishing objective criteria under which the board 89
shall make the determination. The rules shall include standards 90
that provide for all of the following: 91

(1) Evaluating a member's illness or injury on which an 92
application for disability benefits is based; 93

(2) Defining the occupational duties of a police officer or 94
firefighter; 95

(3) Providing for the board to assign competent and 96
disinterested physicians and vocational evaluators to conduct 97
examinations of a member; 98

(4) Requiring a written report for each disability 99
application that includes a summary of findings, medical opinions, 100
including an opinion on whether the illness or injury upon which 101
the member's application for disability benefits is based was 102
caused or induced by the actual performance of the member's 103
official duties, and any recommendations or comments based on the 104
medical opinions; 105

(5) Providing for the board to consider the member's 106
potential for retraining or reemployment. 107

(D) This division does not apply to members of the fund who 108
have elected to receive benefits and pensions in accordance with 109
division (A) or (B) of section 742.37 of the Revised Code or from 110
a police relief and pension fund or a firemen's relief and pension 111
fund in accordance with the rules of that fund in force on April 112
1, 1947. 113

As used in this division: 114

"Totally disabled" means a member of the fund is unable to perform the duties of any gainful occupation for which the member is reasonably fitted by training, experience, and accomplishments. Absolute helplessness is not a prerequisite of being totally disabled.

"Permanently disabled" means a condition of disability from which there is no present indication of recovery.

"Hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended.

(1) A member of the fund who is permanently and totally disabled as the result of the performance of the member's official duties as a member of a police or fire department shall be paid annual disability benefits in accordance with division (A) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and totally disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(2) A member of the fund who is permanently and partially disabled as the result of the performance of the member's official duties as a member of a police or fire department shall, if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (B) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and partially disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(3) (a) A member of the fund who is permanently disabled as a result of heart disease or any cardiovascular or respiratory disease of a chronic nature, which disease or any evidence of which disease was not revealed by the physical examination passed

by the member on entry into the department or another examination 146
specified in rules the board adopts under section 742.10 of the 147
Revised Code, is presumed to have incurred the disease while 148
performing the member's official duties, unless the contrary is 149
shown by competent evidence. The board may waive the requirement 150
that the absence of disease be evidenced by a physical examination 151
if competent medical evidence of a type specified in rules adopted 152
under section 742.10 of the Revised Code is submitted documenting 153
that the disease was not evident prior to or at the time of entry 154
into the department. 155

(b) A member of the fund who is a member of a fire 156
department, has been assigned to at least six years of hazardous 157
duty as a member of a fire department, and is disabled as a result 158
of cancer, is presumed to have incurred the cancer while 159
performing the member's official duties if the member was exposed 160
to an agent classified by the international agency for research on 161
cancer or its successor agency as a group 1 or 2A carcinogen. 162

(c) The presumption described in division (D) (3) (b) of this 163
section is rebuttable in any of the following situations: 164

(i) There is evidence that the member incurred the type of 165
cancer being alleged before becoming a member of the department. 166

(ii) There is evidence that the member's exposure, outside 167
the scope of the member's official duties, to cigarettes, tobacco 168
products, or other conditions presenting an extremely high risk 169
for the development of the cancer alleged, was probably a 170
significant factor in the cause or progression of the cancer. 171

(iii) There is evidence that the member failed to use or 172
improperly used protective equipment while performing the member's 173
official duties, unless the member was instructed to do so by the 174
member's employer or supervisor or the member's employer or 175
supervisor failed to make the equipment available to the member. 176

(iv) There is evidence that the member was not exposed to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

~~(iv)~~ (v) The member is seventy years of age or older.

(d) The presumption described in division (D) (3) (b) of this section does not apply if it has been more than ~~twenty~~ fifteen years since the member was last assigned to hazardous duty as a member of a fire department.

(4) A member of the fund who has five or more years of service credit and has incurred a permanent disability not caused or induced by the actual performance of the member's official duties as a member of the department, or by the member's own negligence, shall if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (C) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(5) The board shall notify a member of its final action awarding a disability benefit to the member within thirty days of the final action. The notice shall be sent by certified mail, return receipt requested. Not later than ninety days after receipt of notice from the board, the member shall elect, on a form provided by the board, either to accept or waive the disability benefit award. If the member elects to waive the disability benefit award or fails to make an election within the time period, the award is rescinded. A member who later seeks a disability benefit award shall be required to make a new application, which shall be dealt with in accordance with the procedures used for original disability benefit applications.

A person is not eligible to apply for or receive disability 208
benefits under this division, section 742.39 of the Revised Code, 209
or division (C) (2), (3), (4), or (5) of former section 742.37 of 210
the Revised Code unless the person is a member of the fund on the 211
date on which the application for disability benefits is submitted 212
to the fund. 213

With the exception of persons who may make application for 214
increased benefits as provided in division (D) (2) or (4) of this 215
section or division (C) (3) or (5) of former section 742.37 of the 216
Revised Code on or after July 24, 1986, or persons who may make 217
application for benefits as provided in section 742.26 of the 218
Revised Code, no person receiving a pension or benefit under this 219
section or division (C) of former section 742.37 of the Revised 220
Code may apply for any new, changed, or different benefit. 221

(E) Notwithstanding the requirement of section 742.41 of the 222
Revised Code that all medical reports and recommendations required 223
are privileged, the board shall submit to the administrator of 224
workers' compensation any data necessary for the report required 225
under section 4123.86 of the Revised Code. 226

Sec. 2307.82. (A) As used in this section, "employer," 227
"illegal alien," "occupational disease," and "unauthorized alien" 228
have the same meanings as in section 4123.01 of the Revised Code. 229

(B) Except as provided in division (C) of this section, no 230
court in this state has jurisdiction over a claim for damages 231
suffered by an illegal alien or an unauthorized alien by reason of 232
personal injury sustained or occupational disease contracted by 233
the illegal alien or unauthorized alien in the course of 234
employment caused by the wrongful act or omission or neglect of 235
the employer. Except as provided in division (C) of this section, 236
an illegal alien or unauthorized alien assumes the risk of 237
incurring such injury or contracting an occupational disease, and 238

that assumption is a complete bar to a recovery of damages for 239
such injury or occupational disease. 240

(C) A court in this state has jurisdiction over a claim 241
brought by an illegal alien or unauthorized alien against an 242
employer for damages suffered by reason of personal injury 243
sustained or occupational disease contracted in the course of 244
employment caused by the wrongful act or omission or neglect of 245
the employer if the illegal alien or unauthorized alien 246
establishes, by clear and convincing evidence, that the employer 247
hired the illegal alien or unauthorized alien knowing that the 248
illegal alien or unauthorized alien was not authorized to work 249
under section 101(a) of the "Immigration Reform and Control Act of 250
1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable 251
presumption that an employer did not hire a person knowing the 252
person was an illegal alien or unauthorized alien if the employer 253
has complied with the requirements of section 101(a) of the 254
"Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 255
U.S.C. 1324a. 256

Nothing in this section shall be construed to prevent an 257
illegal alien or an unauthorized alien from bringing a claim 258
against an employer in a court of competent jurisdiction for an 259
intentional tort allegedly committed by the employer against the 260
illegal alien or unauthorized alien. 261

Sec. 2743.02. (A) (1) The state hereby waives its immunity 262
from liability, except as provided for the office of the state 263
fire marshal in division (G) (1) of section 9.60 and division (B) 264
of section 3737.221 of the Revised Code, except as provided in 265
division (I) of this section, and subject to division (H) of this 266
section, and consents to be sued, and have its liability 267
determined, in the court of claims created in this chapter in 268
accordance with the same rules of law applicable to suits between 269

private parties, except that the determination of liability is 270
subject to the limitations set forth in this chapter and, in the 271
case of state universities or colleges, in section 3345.40 of the 272
Revised Code, and except as provided in division (A) (2) or (3) of 273
this section. To the extent that the state has previously 274
consented to be sued, this chapter has no applicability. 275

Except in the case of a civil action filed by the state, 276
filing a civil action in the court of claims results in a complete 277
waiver of any cause of action, based on the same act or omission, 278
that the filing party has against any officer or employee, as 279
defined in section 109.36 of the Revised Code. The waiver shall be 280
void if the court determines that the act or omission was 281
manifestly outside the scope of the officer's or employee's office 282
or employment or that the officer or employee acted with malicious 283
purpose, in bad faith, or in a wanton or reckless manner. 284

(2) If a claimant proves in the court of claims that an 285
officer or employee, as defined in section 109.36 of the Revised 286
Code, would have personal liability for the officer's or 287
employee's acts or omissions but for the fact that the officer or 288
employee has personal immunity under section 9.86 of the Revised 289
Code, the state shall be held liable in the court of claims in any 290
action that is timely filed pursuant to section 2743.16 of the 291
Revised Code and that is based upon the acts or omissions. 292

(3) (a) Except as provided in division (A) (3) (b) of this 293
section, the state is immune from liability in any civil action or 294
proceeding involving the performance or nonperformance of a public 295
duty, including the performance or nonperformance of a public duty 296
that is owed by the state in relation to any action of an 297
individual who is committed to the custody of the state. 298

(b) The state immunity provided in division (A) (3) (a) of this 299
section does not apply to any action of the state under 300
circumstances in which a special relationship can be established 301

between the state and an injured party. A special relationship 302
under this division is demonstrated if all of the following 303
elements exist: 304

(i) An assumption by the state, by means of promises or 305
actions, of an affirmative duty to act on behalf of the party who 306
was allegedly injured; 307

(ii) Knowledge on the part of the state's agents that 308
inaction of the state could lead to harm; 309

(iii) Some form of direct contact between the state's agents 310
and the injured party; 311

(iv) The injured party's justifiable reliance on the state's 312
affirmative undertaking. 313

(B) The state hereby waives the immunity from liability of 314
all hospitals owned or operated by one or more political 315
subdivisions and consents for them to be sued, and to have their 316
liability determined, in the court of common pleas, in accordance 317
with the same rules of law applicable to suits between private 318
parties, subject to the limitations set forth in this chapter. 319
This division is also applicable to hospitals owned or operated by 320
political subdivisions that have been determined by the supreme 321
court to be subject to suit prior to July 28, 1975. 322

(C) Any hospital, as defined in section 2305.113 of the 323
Revised Code, may purchase liability insurance covering its 324
operations and activities and its agents, employees, nurses, 325
interns, residents, staff, and members of the governing board and 326
committees, and, whether or not such insurance is purchased, may, 327
to the extent that its governing board considers appropriate, 328
indemnify or agree to indemnify and hold harmless any such person 329
against expense, including attorney's fees, damage, loss, or other 330
liability arising out of, or claimed to have arisen out of, the 331
death, disease, or injury of any person as a result of the 332

negligence, malpractice, or other action or inaction of the 333
indemnified person while acting within the scope of the 334
indemnified person's duties or engaged in activities at the 335
request or direction, or for the benefit, of the hospital. Any 336
hospital electing to indemnify those persons, or to agree to so 337
indemnify, shall reserve any funds that are necessary, in the 338
exercise of sound and prudent actuarial judgment, to cover the 339
potential expense, fees, damage, loss, or other liability. The 340
superintendent of insurance may recommend, or, if the hospital 341
requests the superintendent to do so, the superintendent shall 342
recommend, a specific amount for any period that, in the 343
superintendent's opinion, represents such a judgment. This 344
authority is in addition to any authorization otherwise provided 345
or permitted by law. 346

(D) Recoveries against the state shall be reduced by the 347
aggregate of insurance proceeds, disability award, or other 348
collateral recovery received by the claimant. This division does 349
not apply to civil actions in the court of claims against a state 350
university or college under the circumstances described in section 351
3345.40 of the Revised Code. The collateral benefits provisions of 352
division (B) (2) of that section apply under those circumstances. 353

(E) The only defendant in original actions in the court of 354
claims is the state. The state may file a third-party complaint or 355
counterclaim in any civil action, except a civil action for ten 356
thousand dollars or less, that is filed in the court of claims. 357

(F) A civil action against an officer or employee, as defined 358
in section 109.36 of the Revised Code, that alleges that the 359
officer's or employee's conduct was manifestly outside the scope 360
of the officer's or employee's employment or official 361
responsibilities, or that the officer or employee acted with 362
malicious purpose, in bad faith, or in a wanton or reckless manner 363
shall first be filed against the state in the court of claims that 364

has exclusive, original jurisdiction to determine, initially, 365
whether the officer or employee is entitled to personal immunity 366
under section 9.86 of the Revised Code and whether the courts of 367
common pleas have jurisdiction over the civil action. The officer 368
or employee may participate in the immunity determination 369
proceeding before the court of claims to determine whether the 370
officer or employee is entitled to personal immunity under section 371
9.86 of the Revised Code. 372

The filing of a claim against an officer or employee under 373
this division tolls the running of the applicable statute of 374
limitations until the court of claims determines whether the 375
officer or employee is entitled to personal immunity under section 376
9.86 of the Revised Code. 377

(G) If a claim lies against an officer or employee who is a 378
member of the Ohio national guard, and the officer or employee 379
was, at the time of the act or omission complained of, subject to 380
the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 381
2671, et seq., the Federal Tort Claims Act is the exclusive remedy 382
of the claimant and the state has no liability under this section. 383

(H) If an inmate of a state correctional institution has a 384
claim against the state for the loss of or damage to property and 385
the amount claimed does not exceed three hundred dollars, before 386
commencing an action against the state in the court of claims, the 387
inmate shall file a claim for the loss or damage under the rules 388
adopted by the director of rehabilitation and correction pursuant 389
to this division. The inmate shall file the claim within the time 390
allowed for commencement of a civil action under section 2743.16 391
of the Revised Code. If the state admits or compromises the claim, 392
the director shall make payment from a fund designated by the 393
director for that purpose. If the state denies the claim or does 394
not compromise the claim at least sixty days prior to expiration 395
of the time allowed for commencement of a civil action based upon 396

the loss or damage under section 2743.16 of the Revised Code, the 397
inmate may commence an action in the court of claims under this 398
chapter to recover damages for the loss or damage. 399

The director of rehabilitation and correction shall adopt 400
rules pursuant to Chapter 119. of the Revised Code to implement 401
this division. 402

(I) The state is not liable in any civil action brought by or 403
on behalf of an illegal alien or an unauthorized alien for damages 404
suffered by reason of personal injury sustained or occupational 405
disease contracted in the course of employment caused by the 406
wrongful act or omission or neglect of the state acting as an 407
employer unless the illegal alien or unauthorized alien 408
establishes, by clear and convincing evidence, that the state 409
hired that illegal alien or unauthorized alien knowing that the 410
illegal alien or unauthorized alien was not authorized to work 411
under section 101(a) of the "Immigration Reform and Control Act of 412
1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a rebuttable 413
presumption that the state did not hire a person knowing the 414
person was an illegal alien or unauthorized alien if the state has 415
complied with the requirements of section 101(a) of the 416
"Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 417
U.S.C. 1324a. 418

As used in this division, "illegal alien," "occupational 419
disease," and "unauthorized alien" have the same meanings as in 420
section 4123.01 of the Revised Code. 421

Sec. 2744.02. (A) (1) For the purposes of this chapter, the 422
functions of political subdivisions are hereby classified as 423
governmental functions and proprietary functions. Except as 424
provided in division (B) of this section, a political subdivision 425
is not liable in damages in a civil action for injury, death, or 426
loss to person or property allegedly caused by any act or omission 427

of the political subdivision or an employee of the political 428
subdivision in connection with a governmental or proprietary 429
function. A political subdivision is not liable in any civil 430
action brought by or on behalf of an illegal alien or an 431
unauthorized alien for damages suffered by reason of personal 432
injury sustained or occupational disease contracted in the course 433
of employment caused by the wrongful act or omission or neglect of 434
the political subdivision acting as an employer unless the illegal 435
alien or unauthorized alien establishes, by clear and convincing 436
evidence, that the political subdivision hired that illegal alien 437
or unauthorized alien knowing that the illegal alien or 438
unauthorized alien was not authorized to work under section 101(a) 439
of the "Immigration Reform and Control Act of 1986," 100 Stat. 440
3360, 8 U.S.C. 1324a. There is a rebuttable presumption that a 441
political subdivision did not hire a person knowing the person was 442
an illegal alien or unauthorized alien if the political 443
subdivision has complied with the requirements of section 101(a) 444
of the "Immigration Reform and Control Act of 1986," 100 Stat. 445
3360, 8 U.S.C. 1324a. 446

As used in this division, "illegal alien," "occupational 447
disease," and "unauthorized alien" have the same meanings as in 448
section 4123.01 of the Revised Code. 449

(2) The defenses and immunities conferred under this chapter 450
apply in connection with all governmental and proprietary 451
functions performed by a political subdivision and its employees, 452
whether performed on behalf of that political subdivision or on 453
behalf of another political subdivision. 454

(3) Subject to statutory limitations upon their monetary 455
jurisdiction, the courts of common pleas, the municipal courts, 456
and the county courts have jurisdiction to hear and determine 457
civil actions governed by or brought pursuant to this chapter. 458

(B) Subject to sections 2744.03 and 2744.05 of the Revised 459

Code, a political subdivision is liable in damages in a civil 460
action for injury, death, or loss to person or property allegedly 461
caused by an act or omission of the political subdivision or of 462
any of its employees in connection with a governmental or 463
proprietary function, as follows: 464

(1) Except as otherwise provided in this division, political 465
subdivisions are liable for injury, death, or loss to person or 466
property caused by the negligent operation of any motor vehicle by 467
their employees when the employees are engaged within the scope of 468
their employment and authority. The following are full defenses to 469
that liability: 470

(a) A member of a municipal corporation police department or 471
any other police agency was operating a motor vehicle while 472
responding to an emergency call and the operation of the vehicle 473
did not constitute willful or wanton misconduct; 474

(b) A member of a municipal corporation fire department or 475
any other firefighting agency was operating a motor vehicle while 476
engaged in duty at a fire, proceeding toward a place where a fire 477
is in progress or is believed to be in progress, or answering any 478
other emergency alarm and the operation of the vehicle did not 479
constitute willful or wanton misconduct; 480

(c) A member of an emergency medical service owned or 481
operated by a political subdivision was operating a motor vehicle 482
while responding to or completing a call for emergency medical 483
care or treatment, the member was holding a valid commercial 484
driver's license issued pursuant to Chapter 4506. or a driver's 485
license issued pursuant to Chapter 4507. of the Revised Code, the 486
operation of the vehicle did not constitute willful or wanton 487
misconduct, and the operation complies with the precautions of 488
section 4511.03 of the Revised Code. 489

(2) Except as otherwise provided in sections 3314.07 and 490

3746.24 of the Revised Code, political subdivisions are liable for 491
injury, death, or loss to person or property caused by the 492
negligent performance of acts by their employees with respect to 493
proprietary functions of the political subdivisions. 494

(3) Except as otherwise provided in section 3746.24 of the 495
Revised Code, political subdivisions are liable for injury, death, 496
or loss to person or property caused by their negligent failure to 497
keep public roads in repair and other negligent failure to remove 498
obstructions from public roads, except that it is a full defense 499
to that liability, when a bridge within a municipal corporation is 500
involved, that the municipal corporation does not have the 501
responsibility for maintaining or inspecting the bridge. 502

(4) Except as otherwise provided in section 3746.24 of the 503
Revised Code, political subdivisions are liable for injury, death, 504
or loss to person or property that is caused by the negligence of 505
their employees and that occurs within or on the grounds of, and 506
is due to physical defects within or on the grounds of, buildings 507
that are used in connection with the performance of a governmental 508
function, including, but not limited to, office buildings and 509
courthouses, but not including jails, places of juvenile 510
detention, workhouses, or any other detention facility, as defined 511
in section 2921.01 of the Revised Code. 512

(5) In addition to the circumstances described in divisions 513
(B) (1) to (4) of this section, a political subdivision is liable 514
for injury, death, or loss to person or property when civil 515
liability is expressly imposed upon the political subdivision by a 516
section of the Revised Code, including, but not limited to, 517
sections 2743.02 and 5591.37 of the Revised Code. Civil liability 518
shall not be construed to exist under another section of the 519
Revised Code merely because that section imposes a responsibility 520
or mandatory duty upon a political subdivision, because that 521
section provides for a criminal penalty, because of a general 522

authorization in that section that a political subdivision may sue 523
and be sued, or because that section uses the term "shall" in a 524
provision pertaining to a political subdivision. 525

(C) An order that denies a political subdivision or an 526
employee of a political subdivision the benefit of an alleged 527
immunity from liability as provided in this chapter or any other 528
provision of the law is a final order. 529

Sec. 4113.21. (A) No private employer shall require any 530
prospective employee or applicant for employment to pay the cost 531
of a medical examination required by the employer as a condition 532
of employment. 533

(B) No public employer shall require any employee, 534
prospective employee, or applicant for employment to pay the cost 535
of a medical examination required by the public employer as a 536
condition of employment or continued employment. 537

(C) As used in this section: 538

~~(A)~~ "Employer (1) "Private employer" means any individual, 539
partnership, trust, estate, joint-stock company, insurance 540
company, common carrier, public utility, or corporation, whether 541
domestic or foreign, or the receiver, trustee in bankruptcy, 542
trustee, or the successor thereof, who has in employment three or 543
more individuals at any one time within a calendar year. 544

~~(B)~~ (2) "Public employer" means the United States, the state, 545
any political subdivision of the state, and any agency of the 546
United States, the state, or a political subdivision of the state. 547

(3) "Employee" means any person who may be permitted, 548
required, or directed by any employer in consideration of direct 549
or indirect gain or profit, to engage in any employment. 550

(D) Any employer who violates this section shall forfeit not 551
more than one hundred dollars for each violation. The bureau of 552

workers' compensation and the public utilities commission shall 553
enforce this section. 554

Sec. 4121.125. (A) The bureau of workers' compensation board 555
of directors, based upon recommendations of the workers' 556
compensation actuarial committee, may contract with one or more 557
outside actuarial firms and other professional persons, as the 558
board determines necessary, to assist the board in ~~measuring~~ 559
~~maintaining and monitoring~~ the performance of Ohio's workers' 560
compensation system ~~and in comparing Ohio's workers' compensation~~ 561
~~system to other state and private workers' compensation systems.~~ 562
The board, actuarial firm or firms, and professional persons shall 563
~~make such measurements and comparisons~~ perform analyses using 564
accepted insurance industry standards, including, but not limited 565
to, standards promulgated by the actuarial standards board of the 566
American academy of actuaries or techniques used by the National 567
Council on Compensation Insurance. 568

(B) The board may contract with one or more outside firms to 569
conduct management and financial audits of the workers' 570
compensation system, including ~~audits~~ analyses of the reserve fund 571
belonging to the state insurance fund, and to establish objective 572
quality management principles and methods by which to review the 573
performance of the workers' compensation system. 574

(C) The board shall do all of the following: 575

(1) Contract to have prepared annually by or under the 576
supervision of an actuary a report that meets the requirements 577
specified under division (E) of this section and that consists of 578
an actuarial ~~valuation of the assets, estimate of the unpaid~~ 579
~~liabilities, and funding requirements~~ of the state insurance fund 580
and all other funds specified in this chapter and Chapters 4123., 581
4127., and 4131. of the Revised Code; 582

(2) Require that the actuary or person supervised by an 583

actuary referred to in division (C) (1) of this section complete 584
the ~~valuation~~ estimate of unpaid liabilities in accordance with 585
the actuarial standards of practice promulgated by the actuarial 586
standards board of the American academy of actuaries; 587

(3) Submit the report referred to in division (C) (1) of this 588
section to the standing committees of the house of representatives 589
and the senate with primary responsibility for workers' 590
compensation legislation on or before the first day of November 591
following the year for which the ~~valuation~~ estimate of unpaid 592
liabilities was made; 593

(4) Have an actuary or a person who provides actuarial 594
services under the supervision of an actuary, at such time as the 595
board determines, and at least once during the five-year period 596
that commences on September 10, 2007, and once within each 597
five-year period thereafter, conduct an actuarial ~~investigation of~~ 598
~~the experience of employers,~~ analysis of the mortality, ~~service,~~ 599
~~and injury rate of employees, and the payment of temporary total~~ 600
~~disability, permanent partial disability,~~ experience used in 601
estimating the future costs of awards for survivor benefits and 602
permanent total disability under sections 4123.56 to 4123.58 of 603
the Revised Code to be used in the experience rating of an 604
employer for purposes of premium calculation and to update the 605
~~actuarial assumptions~~ claim level reserves used in the report 606
required by division (C) (1) of this section; 607

(5) Submit the report required under division (F) of this 608
section to the standing committees of the house of representatives 609
and the senate with primary responsibility for workers' 610
compensation legislation not later than the first day of November 611
following the fifth year of the period that the report covers; 612

(6) Have prepared by or under the supervision of an actuary 613
an actuarial analysis of any introduced legislation expected to 614
have a measurable financial impact on the workers' compensation 615

system; 616

(7) Submit the report required under division (G) of this 617
section to the legislative service commission and the standing 618
committees of the house of representatives and the senate with 619
primary responsibility for workers' compensation legislation not 620
later than sixty days after the date of introduction of the 621
legislation. 622

(D) The administrator of workers' compensation and the 623
industrial commission shall compile information and provide access 624
to records of the bureau and the industrial commission to the 625
board to the extent necessary for fulfillment of both of the 626
following requirements: 627

(1) Conduct of the ~~measurements and comparisons~~ monitoring 628
described in division (A) of this section; 629

(2) Conduct of the management and financial audits and 630
establishment of the principles and methods described in division 631
(B) of this section. 632

(E) The firm or person with whom the board contracts pursuant 633
to division (C) (1) of this section shall prepare a report of the 634
~~valuation~~ analysis of the unpaid liabilities and submit the report 635
to the board. The firm or person shall include all of the 636
following information in the report that is required under 637
division (C) (1) of this section: 638

(1) A summary of the ~~compensation and benefit provisions~~ 639
funds and components evaluated; 640

(2) A description of the actuarial methods and assumptions 641
~~and actuarial cost method~~ used in the valuation analysis of the 642
unpaid liabilities; 643

(3) A schedule showing the ~~effect~~ impact of any changes in 644
the ~~compensation and benefit provisions, actuarial assumptions, or~~ 645

~~cost methods~~ estimates of the unpaid liabilities since the 646
previous annual actuarial ~~valuation~~ analysis report was submitted 647
to the board. 648

(F) The actuary or person whom the board designates to 649
conduct an actuarial investigation under division (C) (4) of this 650
section shall prepare a report of the actuarial investigation and 651
shall submit the report to the board. The actuary or person shall 652
prepare the report and make any recommended changes ~~in~~ to the 653
actuarial mortality assumptions in accordance with the actuarial 654
standards of practice promulgated by the actuarial standards board 655
of the American academy of actuaries. ~~The actuary or person shall~~ 656
~~include all of the following information in the report:~~ 657

~~(1) A summary of relevant decrement and economic assumption~~ 658
~~experience;~~ 659

~~(2) Recommended changes in actuarial assumptions to be used~~ 660
~~in subsequent actuarial valuations required by division (C) (1) of~~ 661
~~this section;~~ 662

~~(3) A measurement of the financial effect of the recommended~~ 663
~~changes in actuarial assumptions.~~ 664

(G) The actuary or person whom the board designates to 665
conduct the actuarial analysis under division (C) (6) of this 666
section shall prepare a report of the actuarial analysis and shall 667
submit that report to the board. The actuary or person shall 668
complete the analysis in accordance with the actuarial standards 669
of practice promulgated by the actuarial standards board of the 670
American academy of actuaries. The actuary or person shall include 671
all of the following information in the report: 672

(1) A summary of the statutory changes being evaluated; 673

(2) A description of or reference to the actuarial 674
assumptions and actuarial cost method used in the report; 675

~~(3) A description of the participant group or groups included in the report,~~ 676
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~~(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, and in actuarial accrued current estimates of unpaid liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.~~ 678
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~~(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.~~ 685
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(H) The board may, at any time, request an actuary to ~~make~~ perform ~~actuarial valuations analyses~~ to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary. 689
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(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state. 694
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(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings directly to the board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve malfeasance, misfeasance, or nonfeasance on the part of the administrator. The board and the workers' compensation audit 700
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committee may request and review internal audits conducted by the 707
internal auditor. 708

(K) The administrator shall pay the expenses incurred by the 709
board to effectively fulfill its duties and exercise its powers 710
under this section as the administrator pays other operating 711
expenses of the bureau. 712

Sec. 4121.44. (A) The administrator of workers' compensation 713
shall oversee the implementation of the Ohio workers' compensation 714
qualified health plan system as established under section 4121.442 715
of the Revised Code. 716

(B) The administrator shall direct the implementation of the 717
health partnership program administered by the bureau as set forth 718
in section 4121.441 of the Revised Code. To implement the health 719
partnership program and to ensure the efficiency and effectiveness 720
of the public services provided through the program, the bureau: 721

(1) Shall certify one or more external vendors, which shall 722
be known as "managed care organizations," to provide medical 723
management and cost containment services in the health partnership 724
program for a period of two years beginning on the date of 725
certification, consistent with the standards established under 726
this section; 727

(2) May recertify managed care organizations for additional 728
periods of two years; and 729

(3) May integrate the certified managed care organizations 730
with bureau staff and existing bureau services for purposes of 731
operation and training to allow the bureau to assume operation of 732
the health partnership program at the conclusion of the 733
certification periods set forth in division (B) (1) or (2) of this 734
section; 735

(4) May enter into a contract with any managed care 736

organization that is certified by the bureau, pursuant to division 737
(B) (1) or (2) of this section, to provide medical management and 738
cost containment services in the health partnership program. 739

(C) A contract entered into pursuant to division (B) (4) of 740
this section shall include both of the following: 741

(1) Incentives that may be awarded by the administrator, at 742
the administrator's discretion, based on compliance and 743
performance of the managed care organization; 744

(2) Penalties that may be imposed by the administrator, at 745
the administrator's discretion, based on the failure of the 746
managed care organization to reasonably comply with or perform 747
terms of the contract, which may include termination of the 748
contract. 749

(D) Notwithstanding section 119.061 of the Revised Code, a 750
contract entered into pursuant to division (B) (4) of this section 751
may include provisions limiting, restricting, or regulating any 752
marketing or advertising by the managed care organization, or by 753
any individual or entity that is affiliated with or acting on 754
behalf of the managed care organization, under the health 755
partnership program. 756

(E) No managed care organization shall receive compensation 757
under the health partnership program unless the managed care 758
organization has entered into a contract with the bureau pursuant 759
to division (B) (4) of this section. 760

(F) Any managed care organization selected shall demonstrate 761
all of the following: 762

(1) Arrangements and reimbursement agreements with a 763
substantial number of the medical, professional and pharmacy 764
providers currently being utilized by claimants. 765

(2) Ability to accept a common format of medical bill data in 766

an electronic fashion from any provider who wishes to submit 767
medical bill data in that form. 768

(3) A computer system able to handle the volume of medical 769
bills and willingness to customize that system to the bureau's 770
needs and to be operated by the managed care organization's staff, 771
bureau staff, or some combination of both staffs. 772

(4) A prescription drug system where pharmacies on a 773
statewide basis have access to the eligibility and pricing, at a 774
discounted rate, of all prescription drugs. 775

(5) A tracking system to record all telephone calls from 776
claimants and providers regarding the status of submitted medical 777
bills so as to be able to track each inquiry. 778

(6) Data processing capacity to absorb all of the bureau's 779
medical bill processing or at least that part of the processing 780
which the bureau arranges to delegate. 781

(7) Capacity to store, retrieve, array, simulate, and model 782
in a relational mode all of the detailed medical bill data so that 783
analysis can be performed in a variety of ways and so that the 784
bureau and its governing authority can make informed decisions. 785

(8) Wide variety of software programs which translate medical 786
terminology into standard codes, and which reveal if a provider is 787
manipulating the procedures codes, commonly called "unbundling." 788

(9) Necessary professional staff to conduct, at a minimum, 789
authorizations for treatment, medical necessity, utilization 790
review, concurrent review, post-utilization review, and have the 791
attendant computer system which supports such activity and 792
measures the outcomes and the savings. 793

(10) Management experience and flexibility to be able to 794
react quickly to the needs of the bureau in the case of required 795
change in federal or state requirements. 796

(G) (1) The administrator may decertify a managed care 797
organization if the managed care organization does any of the 798
following: 799

(a) Fails to maintain any of the requirements set forth in 800
division (F) of this section; 801

(b) Fails to reasonably comply with or to perform in 802
accordance with the terms of a contract entered into under 803
division (B) (4) of this section; 804

(c) Violates a rule adopted under section 4121.441 of the 805
Revised Code. 806

(2) The administrator shall provide each managed care 807
organization that is being decertified pursuant to division (G) (1) 808
of this section with written notice of the pending decertification 809
and an opportunity for a hearing pursuant to rules adopted by the 810
administrator. 811

(H) (1) Information contained in a managed care organization's 812
application for certification in the health partnership program, 813
and other information furnished to the bureau by a managed care 814
organization for purposes of obtaining certification or to comply 815
with performance and financial auditing requirements established 816
by the administrator, is for the exclusive use and information of 817
the bureau in the discharge of its official duties, and shall not 818
be open to the public or be used in any court in any proceeding 819
pending therein, unless the bureau is a party to the action or 820
proceeding, but the information may be tabulated and published by 821
the bureau in statistical form for the use and information of 822
other state departments and the public. No employee of the bureau, 823
except as otherwise authorized by the administrator, shall divulge 824
any information secured by the employee while in the employ of the 825
bureau in respect to a managed care organization's application for 826
certification or in respect to the business or other trade 827

processes of any managed care organization to any person other 828
than the administrator or to the employee's superior. 829

(2) Notwithstanding the restrictions imposed by division 830
(H) (1) of this section, the governor, members of select or 831
standing committees of the senate or house of representatives, the 832
auditor of state, the attorney general, or their designees, 833
pursuant to the authority granted in this chapter and Chapter 834
4123. of the Revised Code, may examine any managed care 835
organization application or other information furnished to the 836
bureau by the managed care organization. None of those individuals 837
shall divulge any information secured in the exercise of that 838
authority in respect to a managed care organization's application 839
for certification or in respect to the business or other trade 840
processes of any managed care organization to any person. 841

(I) On and after January 1, 2001, a managed care organization 842
shall not be an insurance company holding a certificate of 843
authority issued pursuant to Title XXXIX of the Revised Code or a 844
health insuring corporation holding a certificate of authority 845
under Chapter 1751. of the Revised Code. 846

(J) The administrator may limit freedom of choice of health 847
care provider or supplier by requiring, beginning with the period 848
set forth in division (B) (1) or (2) of this section, that 849
claimants shall pay an appropriate out-of-plan copayment for 850
selecting a medical provider not within the health partnership 851
program as provided for in this section. 852

(K) The administrator, six months prior to the expiration of 853
the bureau's certification or recertification of the managed care 854
organizations as set forth in division (B) (1) or (2) of this 855
section, may certify and provide evidence to the governor, the 856
speaker of the house of representatives, and the president of the 857
senate that the existing bureau staff is able to match or exceed 858
the performance and outcomes of the managed care organizations and 859

that the bureau should be permitted to internally administer the 860
health partnership program upon the expiration of the 861
certification or recertification as set forth in division (B) (1) 862
or (2) of this section. 863

(L) The administrator shall establish and operate a bureau of 864
workers' compensation health care data program. The administrator 865
shall develop reporting requirements from all employees, 866
employers, medical providers, managed care organizations, and 867
plans that participate in the workers' compensation system. The 868
administrator shall do all of the following: 869

(1) Utilize the collected data to measure and perform 870
comparison analyses of costs, quality, appropriateness of medical 871
care, and effectiveness of medical care delivered by all 872
components of the workers' compensation system. 873

(2) Compile data to support activities of the selected 874
managed care organizations and to measure the outcomes and savings 875
of the health partnership program. 876

(3) Publish and report compiled data on the measures of 877
outcomes and savings of the health partnership program and submit 878
the report to the president of the senate, the speaker of the 879
house of representatives, and the governor with the annual report 880
prepared under division (F) (3) of section 4121.12 of the Revised 881
Code. The administrator shall protect the confidentiality of all 882
proprietary pricing data. 883

(M) Any rehabilitation facility the bureau operates is 884
eligible for inclusion in the Ohio workers' compensation qualified 885
health plan system or the health partnership program under the 886
same terms as other providers within health care plans or the 887
program. 888

(N) In areas outside the state or within the state where no 889
qualified health plan or an inadequate number of providers within 890

the health partnership program exist, the administrator shall 891
permit employees to use a nonplan or nonprogram health care 892
provider and shall pay the provider for the services or supplies 893
provided to or on behalf of an employee for an injury or 894
occupational disease that is compensable under this chapter or 895
Chapter 4123., 4127., or 4131. of the Revised Code on a fee 896
schedule the administrator adopts. 897

(O) No health care provider, whether certified or not, shall 898
charge, assess, or otherwise attempt to collect from an employee, 899
employer, a managed care organization, or the bureau any amount 900
for covered services or supplies that is in excess of the allowed 901
amount paid by a managed care organization, the bureau, or a 902
qualified health plan. 903

(P) The administrator shall permit any employer or group of 904
employers who agree to abide by the rules adopted under this 905
section and sections 4121.441 and 4121.442 of the Revised Code to 906
provide services or supplies to or on behalf of an employee for an 907
injury or occupational disease that is compensable under this 908
chapter or Chapter 4123., 4127., or 4131. of the Revised Code 909
through qualified health plans of the Ohio workers' compensation 910
qualified health plan system pursuant to section 4121.442 of the 911
Revised Code or through the health partnership program pursuant to 912
section 4121.441 of the Revised Code. No amount paid under the 913
qualified health plan system pursuant to section 4121.442 of the 914
Revised Code by an employer who is a state fund employer shall be 915
charged to the employer's experience or otherwise be used in 916
merit-rating or determining the risk of that employer for the 917
purpose of the payment of premiums under this chapter, and if the 918
employer is a self-insuring employer, the employer shall not 919
include that amount in the paid compensation the employer reports 920
under section 4123.35 of the Revised Code. 921

(O) The administrator, in consultation with the health care 922

quality assurance advisory committee created by the administrator 923
or its successor committee, shall develop and periodically revise 924
standards for maintaining an adequate number of providers 925
certified by the bureau for each service currently being used by 926
claimants. The standards shall ensure both of the following: 927

(1) That a claimant has access to a choice of providers for 928
similar services within the geographic area that the claimant 929
resides: 930

(2) That the providers within a geographic area are actively 931
accepting new claimants as required in rules adopted by the 932
administrator. 933

Sec. 4123.01. As used in this chapter: 934

(A) (1) "Employee" means: 935

(a) Every person in the service of the state, or of any 936
county, municipal corporation, township, or school district 937
therein, including regular members of lawfully constituted police 938
and fire departments of municipal corporations and townships, 939
whether paid or volunteer, and wherever serving within the state 940
or on temporary assignment outside thereof, and executive officers 941
of boards of education, under any appointment or contract of hire, 942
express or implied, oral or written, including any elected 943
official of the state, or of any county, municipal corporation, or 944
township, or members of boards of education. 945

As used in division (A) (1) (a) of this section, the term 946
"employee" includes the following persons when responding to an 947
inherently dangerous situation that calls for an immediate 948
response on the part of the person, regardless of whether the 949
person is within the limits of the jurisdiction of the person's 950
regular employment or voluntary service when responding, on the 951
condition that the person responds to the situation as the person 952

otherwise would if the person were on duty in the person's 953
jurisdiction: 954

(i) Off-duty peace officers. As used in division (A) (1) (a) (i) 955
of this section, "peace officer" has the same meaning as in 956
section 2935.01 of the Revised Code. 957

(ii) Off-duty firefighters, whether paid or volunteer, of a 958
lawfully constituted fire department. 959

(iii) Off-duty first responders, emergency medical 960
technicians-basic, emergency medical technicians-intermediate, or 961
emergency medical technicians-paramedic, whether paid or 962
volunteer, of an ambulance service organization or emergency 963
medical service organization pursuant to Chapter 4765. of the 964
Revised Code. 965

(b) Every person in the service of any person, firm, or 966
private corporation, including any public service corporation, 967
that (i) employs one or more persons regularly in the same 968
business or in or about the same establishment under any contract 969
of hire, express or implied, oral or written, including aliens ~~and~~ 970
authorized to work by the United States department of homeland 971
security or its successors; minors; household workers who earn 972
one hundred sixty dollars or more in cash in any calendar quarter 973
from a single household; and casual workers who earn one hundred 974
sixty dollars or more in cash in any calendar quarter from a 975
single employer; or (ii) is bound by any such contract of hire or 976
by any other written contract, to pay into the state insurance 977
fund the premiums provided by this chapter. 978

(c) Every person who performs labor or provides services 979
pursuant to a construction contract, as defined in section 4123.79 980
of the Revised Code, if at least ten of the following criteria 981
apply: 982

(i) The person is required to comply with instructions from 983

the other contracting party regarding the manner or method of	984
performing services;	985
(ii) The person is required by the other contracting party to	986
have particular training;	987
(iii) The person's services are integrated into the regular	988
functioning of the other contracting party;	989
(iv) The person is required to perform the work personally;	990
(v) The person is hired, supervised, or paid by the other	991
contracting party;	992
(vi) A continuing relationship exists between the person and	993
the other contracting party that contemplates continuing or	994
recurring work even if the work is not full time;	995
(vii) The person's hours of work are established by the other	996
contracting party;	997
(viii) The person is required to devote full time to the	998
business of the other contracting party;	999
(ix) The person is required to perform the work on the	1000
premises of the other contracting party;	1001
(x) The person is required to follow the order of work set by	1002
the other contracting party;	1003
(xi) The person is required to make oral or written reports	1004
of progress to the other contracting party;	1005
(xii) The person is paid for services on a regular basis such	1006
as hourly, weekly, or monthly;	1007
(xiii) The person's expenses are paid for by the other	1008
contracting party;	1009
(xiv) The person's tools and materials are furnished by the	1010
other contracting party;	1011
(xv) The person is provided with the facilities used to	1012

perform services;	1013
(xvi) The person does not realize a profit or suffer a loss	1014
as a result of the services provided;	1015
(xvii) The person is not performing services for a number of	1016
employers at the same time;	1017
(xviii) The person does not make the same services available	1018
to the general public;	1019
(xix) The other contracting party has a right to discharge	1020
the person;	1021
(xx) The person has the right to end the relationship with	1022
the other contracting party without incurring liability pursuant	1023
to an employment contract or agreement.	1024
Every person in the service of any independent contractor or	1025
subcontractor who has failed to pay into the state insurance fund	1026
the amount of premium determined and fixed by the administrator of	1027
workers' compensation for the person's employment or occupation or	1028
if a self-insuring employer has failed to pay compensation and	1029
benefits directly to the employer's injured and to the dependents	1030
of the employer's killed employees as required by section 4123.35	1031
of the Revised Code, shall be considered as the employee of the	1032
person who has entered into a contract, whether written or verbal,	1033
with such independent contractor unless such employees or their	1034
legal representatives or beneficiaries elect, after injury or	1035
death, to regard such independent contractor as the employer.	1036
(2) "Employee" does not mean any of the following:	1037
(a) A duly ordained, commissioned, or licensed minister or	1038
assistant or associate minister of a church in the exercise of	1039
ministry;	1040
(b) Any officer of a family farm corporation;	1041
(c) An individual incorporated as a corporation;	1042

(d) An officer of a nonprofit corporation, as defined in 1043
section 1702.01 of the Revised Code, who volunteers the person's 1044
services as ~~a~~ an officer; 1045

(e) An individual who otherwise is an employee of an employer 1046
but who signs the waiver and affidavit specified in section 1047
4123.15 of the Revised Code on the condition that the 1048
administrator has granted a waiver and exception to the 1049
individual's employer under section 4123.15 of the Revised Code; 1050

(f) An illegal alien or an unauthorized alien. 1051

Any employer may elect to include as an "employee" within 1052
this chapter, any person excluded from the definition of 1053
"employee" pursuant to division (A) (2) (a), (b), (c), or (e) of 1054
this section in accordance with rules adopted by the 1055
administrator, with the advice and consent of the bureau of 1056
workers' compensation board of directors. If an employer is a 1057
partnership, sole proprietorship, individual incorporated as a 1058
corporation, or family farm corporation, such employer may elect 1059
to include as an "employee" within this chapter, any member of 1060
such partnership, the owner of the sole proprietorship, the 1061
individual incorporated as a corporation, or the officers of the 1062
family farm corporation. Nothing in this section shall prohibit a 1063
partner, sole proprietor, or any person excluded from the 1064
definition of "employee" pursuant to division (A) (2) (a), (b), (c), 1065
or (e) of this section from electing to be included as an 1066
"employee" under this chapter in accordance with rules adopted by 1067
the administrator, with the advice and consent of the board. 1068

In the event of an election, the employer or person electing 1069
coverage shall serve upon the bureau of workers' compensation 1070
written notice naming the person to be covered and include the 1071
person's remuneration for premium purposes in all future payroll 1072
reports. No partner, sole proprietor, or person excluded from the 1073
definition of "employee" pursuant to division (A) (2) (a), (b), (c), 1074

or (e) of this section, shall receive benefits or compensation 1075
under this chapter until the bureau receives written notice of the 1076
election permitted by this section. 1077

For informational purposes only, the bureau shall prescribe 1078
such language as it considers appropriate, on such of its forms as 1079
it considers appropriate, to advise employers of their right to 1080
elect to include as an "employee" within this chapter a sole 1081
proprietor, any member of a partnership, or a person excluded from 1082
the definition of "employee" under division (A) (2) (a), (b), (c), 1083
or (e) of this section, that they should check any health and 1084
disability insurance policy, or other form of health and 1085
disability plan or contract, presently covering them, or the 1086
purchase of which they may be considering, to determine whether 1087
such policy, plan, or contract excludes benefits for illness or 1088
injury that they might have elected to have covered by workers' 1089
compensation. 1090

(B) "Employer" means: 1091

(1) The state, including state hospitals, each county, 1092
municipal corporation, township, school district, and hospital 1093
owned by a political subdivision or subdivisions other than the 1094
state; 1095

(2) Every person, firm, professional employer organization, 1096
and private corporation, including any public service corporation, 1097
that (a) has in service one or more employees or shared employees 1098
regularly in the same business or in or about the same 1099
establishment under any contract of hire, express or implied, oral 1100
or written, or (b) is bound by any such contract of hire or by any 1101
other written contract, to pay into the insurance fund the 1102
premiums provided by this chapter. 1103

All such employers are subject to this chapter. Any member of 1104
a firm or association, who regularly performs manual labor in or 1105

about a mine, factory, or other establishment, including a 1106
household establishment, shall be considered an employee in 1107
determining whether such person, firm, or private corporation, or 1108
public service corporation, has in its service, one or more 1109
employees and the employer shall report the income derived from 1110
such labor to the bureau as part of the payroll of such employer, 1111
and such member shall thereupon be entitled to all the benefits of 1112
an employee. 1113

(C) "Injury" includes any injury, whether caused by external 1114
accidental means or accidental in character and result, received 1115
in the course of, and arising out of, the injured employee's 1116
employment. "Injury" does not include: 1117

(1) Psychiatric conditions except where the claimant's 1118
psychiatric conditions have arisen from an injury or occupational 1119
disease sustained by that claimant or where the claimant's 1120
psychiatric conditions have arisen from sexual conduct in which 1121
the claimant was forced by threat of physical harm to engage or 1122
participate; 1123

(2) Injury or disability caused primarily by the natural 1124
deterioration of tissue, an organ, or part of the body; 1125

(3) Injury or disability incurred in voluntary participation 1126
in an employer-sponsored recreation or fitness activity if the 1127
employee signs a waiver of the employee's right to compensation or 1128
benefits under this chapter prior to engaging in the recreation or 1129
fitness activity; 1130

(4) A condition that pre-existed an injury unless that 1131
pre-existing condition is substantially aggravated by the injury. 1132
Such a substantial aggravation must be documented by objective 1133
diagnostic findings, objective clinical findings, or objective 1134
test results. Subjective complaints may be evidence of such a 1135
substantial aggravation. However, subjective complaints without 1136

objective diagnostic findings, objective clinical findings, or 1137
objective test results are insufficient to substantiate a 1138
substantial aggravation. 1139

(D) "Child" includes a posthumous child and a child legally 1140
adopted prior to the injury. 1141

(E) "Family farm corporation" means a corporation founded for 1142
the purpose of farming agricultural land in which the majority of 1143
the voting stock is held by and the majority of the stockholders 1144
are persons or the spouse of persons related to each other within 1145
the fourth degree of kinship, according to the rules of the civil 1146
law, and at least one of the related persons is residing on or 1147
actively operating the farm, and none of whose stockholders are a 1148
corporation. A family farm corporation does not cease to qualify 1149
under this division where, by reason of any devise, bequest, or 1150
the operation of the laws of descent or distribution, the 1151
ownership of shares of voting stock is transferred to another 1152
person, as long as that person is within the degree of kinship 1153
stipulated in this division. 1154

(F) "Occupational disease" means a disease contracted in the 1155
course of employment, which by its causes and the characteristics 1156
of its manifestation or the condition of the employment results in 1157
a hazard which distinguishes the employment in character from 1158
employment generally, and the employment creates a risk of 1159
contracting the disease in greater degree and in a different 1160
manner from the public in general. 1161

(G) "Self-insuring employer" means an employer who is granted 1162
the privilege of paying compensation and benefits directly under 1163
section 4123.35 of the Revised Code, including a board of county 1164
commissioners for the sole purpose of constructing a sports 1165
facility as defined in section 307.696 of the Revised Code, 1166
provided that the electors of the county in which the sports 1167
facility is to be built have approved construction of a sports 1168

facility by ballot election no later than November 6, 1997. 1169

(H) "Private employer" means an employer as defined in 1170
division (B) (2) of this section. 1171

(I) "Professional employer organization" has the same meaning 1172
as in section 4125.01 of the Revised Code. 1173

(J) "Public employer" means an employer as defined in 1174
division (B) (1) of this section. 1175

(K) "Sexual conduct" means vaginal intercourse between a male 1176
and female; anal intercourse, fellatio, and cunnilingus between 1177
persons regardless of gender; and, without privilege to do so, the 1178
insertion, however slight, of any part of the body or any 1179
instrument, apparatus, or other object into the vaginal or anal 1180
cavity of another. Penetration, however slight, is sufficient to 1181
complete vaginal or anal intercourse. 1182

(L) "Other-states' insurer" means an insurance company that 1183
is authorized to provide workers' compensation insurance coverage 1184
in any of the states that permit employers to obtain insurance for 1185
workers' compensation claims through insurance companies. 1186

(M) "Other-states' coverage" means both of the following: 1187

(1) Insurance coverage secured by an eligible employer for 1188
workers' compensation claims of employees who are in employment 1189
relationships localized in a state other than this state or those 1190
employees' dependents; 1191

(2) Insurance coverage secured by an eligible employer for 1192
workers' compensation claims that arise in a state other than this 1193
state where an employer elects to obtain coverage through either 1194
the administrator or an other-states' insurer. 1195

(N) "Limited other-states coverage" means insurance coverage 1196
provided by the administrator to an eligible employer for workers' 1197
compensation claims of employees who are in an employment 1198

relationship localized in this state but are temporarily working 1199
in a state other than this state, or those employees' dependents. 1200

(O) "Illegal alien" means an alien who is deportable if 1201
apprehended because of one of the following: 1202

(1) The alien entered the United States illegally without the 1203
proper authorization and documents. 1204

(2) The alien once entered the United States legally and has 1205
since violated the terms of the status under which the alien 1206
entered the United States, making that alien an "out of status" 1207
alien. 1208

(3) The alien once entered the United States legally but has 1209
overstayed the time limits of the original legal status. 1210

(P) "Unauthorized alien" means an alien who is not authorized 1211
to be employed as determined in accordance with section 101(a) of 1212
the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 1213
8 U.S.C. 1324a. 1214

Sec. 4123.29. (A) The administrator of workers' compensation, 1215
subject to the approval of the bureau of workers' compensation 1216
board of directors, shall do all of the following: 1217

(1) Classify occupations or industries with respect to their 1218
degree of hazard and determine the risks of the different classes 1219
according to the categories the national council on compensation 1220
insurance establishes that are applicable to employers in this 1221
state; 1222

(2) (a) Fix the rates of premium of the risks of the classes 1223
based upon the total payroll in each of the classes of occupation 1224
or industry sufficiently large to provide a fund for the 1225
compensation provided for in this chapter and to maintain a state 1226
insurance fund from year to year. The administrator shall set the 1227
rates at a level that assures the solvency of the fund. Where the 1228

payroll cannot be obtained or, in the opinion of the 1229
administrator, is not an adequate measure for determining the 1230
premium to be paid for the degree of hazard, the administrator may 1231
determine the rates of premium upon such other basis, consistent 1232
with insurance principles, as is equitable in view of the degree 1233
of hazard, and whenever in this chapter reference is made to 1234
payroll or expenditure of wages with reference to fixing premiums, 1235
the reference shall be construed to have been made also to such 1236
other basis for fixing the rates of premium as the administrator 1237
may determine under this section. 1238

(b) If an employer elects to obtain other-states' coverage, 1239
including limited other-states' coverage, pursuant to section 1240
4123.292 of the Revised Code through the administrator, if the 1241
administrator elects to offer such coverage, calculate the 1242
employer's premium for the state insurance fund in the same manner 1243
as otherwise required under division (A) of this section and 1244
section 4123.34 of the Revised Code, except that the administrator 1245
may establish in rule an alternative calculation of the employer's 1246
premium to appropriately account for the expenditure of wages, 1247
payroll, or both attributable to the labor performed and services 1248
provided by that employer's employees when those employees 1249
performed labor and provided services in this state and in the 1250
other state or states for which the employer elects to secure 1251
other-states' coverage. 1252

(c) If an employer elects to obtain other-states' coverage 1253
pursuant to section 4123.292 of the Revised Code through an 1254
other-states' insurer, calculate the employer's premium for the 1255
state insurance fund in the same manner as otherwise required 1256
under division (A) of this section and section 4123.34 of the 1257
Revised Code, except that when the administrator determines the 1258
expenditure of wages, payroll, or both upon which to base the 1259
employer's premium, the administrator shall use only the 1260

expenditure of wages, payroll, or both attributable to the labor 1261
performed and services provided by that employer's employees when 1262
those employees performed labor and provided services in this 1263
state only and to which the other-states' coverage does not apply. 1264
The administrator may adopt rules setting forth the information 1265
that an employer electing to obtain other-states' coverage through 1266
an other-states' insurer shall report for purposes of determining 1267
the expenditure of wages, payroll, or both attributable to the 1268
labor performed and services provided in this state. 1269

(d) The administrator in setting or revising rates shall 1270
furnish to employers an adequate explanation of the basis for the 1271
rates set. 1272

(3) Develop and make available to employers who are paying 1273
premiums to the state insurance fund alternative premium plans. 1274
Alternative premium plans shall include retrospective rating 1275
plans. The administrator may make available plans under which an 1276
advanced deposit may be applied against a specified deductible 1277
amount per claim. 1278

(4) (a) Offer to insure the obligations of employers under 1279
this chapter under a plan that groups, for rating purposes, 1280
employers, and pools the risk of the employers within the group 1281
provided that the employers meet all of the following conditions: 1282

(i) All of the employers within the group are members of an 1283
organization that has been in existence for at least two years 1284
prior to the date of application for group coverage; 1285

(ii) The organization was formed for purposes other than that 1286
of obtaining group workers' compensation under this division; 1287

(iii) The employers' business in the organization is 1288
substantially similar such that the risks which are grouped are 1289
substantially homogeneous; 1290

(iv) The group of employers consists of at least one hundred 1291

members or the aggregate workers' compensation premiums of the 1292
members, as determined by the administrator, are estimated to 1293
exceed one hundred fifty thousand dollars during the coverage 1294
period; 1295

(v) The formation and operation of the group program in the 1296
organization will substantially improve accident prevention and 1297
claims handling for the employers in the group; 1298

(vi) Each employer seeking to enroll in a group for workers' 1299
compensation coverage has an account in good standing with the 1300
bureau of workers' compensation. The administrator shall adopt 1301
rules setting forth the criteria by which the administrator will 1302
determine whether an employer's account is in good standing. 1303

(b) If an organization sponsors more than one employer group 1304
to participate in group plans established under this section, that 1305
organization may submit a single application that supplies all of 1306
the information necessary for each group of employers that the 1307
organization wishes to sponsor. 1308

(c) In providing employer group plans under division (A) (4) 1309
of this section, the administrator shall consider an employer' 1310
group as a single employing entity for purposes of group rating. 1311
No employer may be a member of more than one group for the purpose 1312
of obtaining workers' compensation coverage under this division. 1313

(d) At the time the administrator revises premium rates 1314
pursuant to this section and section 4123.34 of the Revised Code, 1315
if the premium rate of an employer who participates in a group 1316
plan established under this section changes from the rate 1317
established for the previous year, the administrator, in addition 1318
to sending the invoice with the rate revision to that employer, 1319
shall ~~send a copy of that invoice~~ provide an explanation of the 1320
rate revision to the third-party administrator that administers 1321
the group plan for that employer's group. 1322

(e) In providing employer group plans under division (A) (4) 1323
of this section, the administrator shall establish a program 1324
designed to mitigate the impact of a significant claim that would 1325
come into the experience of a private, state fund group-rated 1326
employer or a taxing district employer for the first time and be a 1327
contributing factor in that employer being excluded from a 1328
group-rated plan. The administrator shall establish eligibility 1329
criteria and requirements that such employers must satisfy in 1330
order to participate in this program. For purposes of this 1331
program, the administrator shall establish a discount on premium 1332
rates applicable to employers who qualify for the program. 1333

(f) In no event shall division (A) (4) of this section be 1334
construed as granting to an employer status as a self-insuring 1335
employer. 1336

(g) The administrator shall develop classifications of 1337
occupations or industries that are sufficiently distinct so as not 1338
to group employers in classifications that unfairly represent the 1339
risks of employment with the employer. 1340

(5) Generally promote employer participation in the state 1341
insurance fund through the regular dissemination of information to 1342
all classes of employers describing the advantages and benefits of 1343
opting to make premium payments to the fund. To that end, the 1344
administrator shall regularly make employers aware of the various 1345
workers' compensation premium packages developed and offered 1346
pursuant to this section. 1347

(6) Make available to every employer who is paying premiums 1348
to the state insurance fund a program whereby the employer or the 1349
employer's agent pays to the claimant or on behalf of the claimant 1350
the first fifteen thousand dollars of a compensable workers' 1351
compensation medical-only claim filed by that claimant that is 1352
related to the same injury or occupational disease. No formal 1353
application is required; however, an employer must elect to 1354

participate by telephoning the bureau after July 1, 1995. Once an 1355
employer has elected to participate in the program, the employer 1356
will be responsible for all bills in all medical-only claims with 1357
a date of injury the same or later than the election date, unless 1358
the employer notifies the bureau within fourteen days of receipt 1359
of the notification of a claim being filed that it does not wish 1360
to pay the bills in that claim, or the employer notifies the 1361
bureau that the fifteen thousand dollar maximum has been paid, or 1362
the employer notifies the bureau of the last day of service on 1363
which it will be responsible for the bills in a particular 1364
medical-only claim. If an employer elects to enter the program, 1365
the administrator shall not reimburse the employer for such 1366
amounts paid and shall not charge the first fifteen thousand 1367
dollars of any medical-only claim paid by an employer to the 1368
employer's experience or otherwise use it in merit rating or 1369
determining the risks of any employer for the purpose of payment 1370
of premiums under this chapter. A certified health care provider 1371
shall extend to an employer who participates in this program the 1372
same rates for services rendered to an employee of that employer 1373
as the provider bills the administrator for the same type of 1374
medical claim processed by the bureau and shall not charge, 1375
assess, or otherwise attempt to collect from an employee any 1376
amount for covered services or supplies that is in excess of that 1377
rate. If an employer elects to enter the program and the employer 1378
fails to pay a bill for a medical-only claim included in the 1379
program, the employer shall be liable for that bill and the 1380
employee for whom the employer failed to pay the bill shall not be 1381
liable for that bill. The administrator shall adopt rules to 1382
implement and administer division (A) (6) of this section. Upon 1383
written request from the bureau, the employer shall provide 1384
documentation to the bureau of all medical-only bills that they 1385
are paying directly. Such requests from the bureau may not be made 1386
more frequently than on a semiannual basis. Failure to provide 1387

such documentation to the bureau within thirty days of receipt of 1388
the request may result in the employer's forfeiture of 1389
participation in the program for such injury. The provisions of 1390
this section shall not apply to claims in which an employer with 1391
knowledge of a claimed compensable injury or occupational disease, 1392
has paid wages in lieu of compensation or total disability. 1393

(B) The administrator, with the advice and consent of the 1394
board, by rule, may do both of the following: 1395

(1) Grant an employer who pays the employer's annual 1396
estimated premium in full prior to the start of the policy year 1397
for which the estimated premium is due, a discount as the 1398
administrator fixes from time to time; 1399

(2) Levy a minimum annual administrative charge upon risks 1400
where premium reports develop a charge less than the administrator 1401
considers adequate to offset administrative costs of processing. 1402

Sec. 4123.343. This section shall be construed liberally to 1403
the end that employers shall be encouraged to employ and retain in 1404
their employment handicapped employees as defined in this section. 1405

(A) As used in this section, "handicapped employee" means an 1406
employee who is afflicted with or subject to any physical or 1407
mental impairment, or both, whether congenital or due to an injury 1408
or disease of such character that the impairment constitutes a 1409
handicap in obtaining employment or would constitute a handicap in 1410
obtaining reemployment if the employee should become unemployed 1411
and whose handicap is due to any of the following diseases or 1412
conditions: 1413

- (1) Epilepsy; 1414
- (2) Diabetes; 1415
- (3) Cardiac disease; 1416
- (4) Arthritis; 1417

(5) Amputated foot, leg, arm, or hand;	1418
(6) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally;	1419 1420
(7) Residual disability from poliomyelitis;	1421
(8) Cerebral palsy;	1422
(9) Multiple sclerosis;	1423
(10) Parkinson's disease;	1424
(11) Cerebral vascular accident;	1425
(12) Tuberculosis;	1426
(13) Silicosis;	1427
(14) Psycho-neurotic disability following treatment in a recognized medical or mental institution;	1428 1429
(15) Hemophilia;	1430
(16) Chronic osteomyelitis;	1431
(17) Ankylosis of joints;	1432
(18) Hyper insulinism;	1433
(19) Muscular dystrophies;	1434
(20) Arterio-sclerosis;	1435
(21) Thrombo-phlebitis;	1436
(22) Varicose veins;	1437
(23) Cardiovascular, pulmonary, or respiratory diseases of a firefighter or police officer employed by a municipal corporation or township as a regular member of a lawfully constituted police department or fire department;	1438 1439 1440 1441
(24) Coal miners' pneumoconiosis, commonly referred to as "black lung disease";	1442 1443
(25) Disability with respect to which an individual has	1444

completed a rehabilitation program conducted pursuant to sections 1445
4121.61 to 4121.69 of the Revised Code. 1446

(B) Under the circumstances set forth in this section all or 1447
such portion as the administrator determines of the compensation 1448
and benefits paid in any claim arising hereafter shall be charged 1449
to and paid from the statutory surplus fund created under section 1450
4123.34 of the Revised Code and only the portion remaining shall 1451
be merit-rated or otherwise treated as part of the accident or 1452
occupational disease experience of the employer. The provisions of 1453
this section apply only in cases of death, total disability, 1454
whether temporary or permanent, and all disabilities compensated 1455
under division (B) of section 4123.57 of the Revised Code. The 1456
administrator shall adopt rules specifying the grounds upon which 1457
charges to the statutory surplus fund are to be made. The 1458
~~administrator, in those rules, shall prohibit as a grounds any~~ 1459
~~agreement between employer and claimant as to the merits of a~~ 1460
~~claim and the amount of the charge~~ require that a settlement 1461
agreement approved pursuant to section 4123.65 of the Revised Code 1462
or a settlement agreement approved by a court of competent 1463
jurisdiction in this state be treated as an award of compensation 1464
granted by the administrator for the purpose of making a 1465
determination under this section. 1466

(C) Any employer who has in its employ a handicapped employee 1467
is entitled, in the event the person is injured, to a 1468
determination under this section. 1469

An employer shall file an application under this section for 1470
a determination with the bureau or commission in the same manner 1471
as other claims. An application only may be made in cases where a 1472
handicapped employee or a handicapped employee's dependents claim 1473
or are receiving an award of compensation as a result of an injury 1474
or occupational disease occurring or contracted on or after the 1475
date on which division (A) of this section first included the 1476

handicap of such employee. 1477

(D) The circumstances under and the manner in which an 1478
apportionment under this section shall be made are: 1479

(1) Whenever a handicapped employee is injured or disabled or 1480
dies as the result of an injury or occupational disease sustained 1481
in the course of and arising out of a handicapped employee's 1482
employment in this state and the administrator awards compensation 1483
therefor and when it appears to the satisfaction of the 1484
administrator that the injury or occupational disease or the death 1485
resulting therefrom would not have occurred but for the 1486
pre-existing physical or mental impairment of the handicapped 1487
employee, all compensation and benefits payable on account of the 1488
disability or death shall be paid from the surplus fund. 1489

(2) Whenever a handicapped employee is injured or disabled or 1490
dies as a result of an injury or occupational disease and the 1491
administrator finds that the injury or occupational disease would 1492
have been sustained or suffered without regard to the employee's 1493
pre-existing impairment but that the resulting disability or death 1494
was caused at least in part through aggravation of the employee's 1495
pre-existing disability, the administrator shall determine in a 1496
manner that is equitable and reasonable and based upon medical 1497
evidence the amount of disability or proportion of the cost of the 1498
death award that is attributable to the employee's pre-existing 1499
disability and the amount found shall be charged to the statutory 1500
surplus fund. 1501

(E) The benefits and provisions of this section apply only to 1502
employers who have complied with this chapter through insurance 1503
with the state fund. 1504

(F) No employer shall in any year receive credit under this 1505
section in an amount greater than the premium the employer paid. 1506

(G) An order issued by the administrator pursuant to this 1507

section is appealable under section 4123.511 of the Revised Code 1508
but is not appealable to court under section 4123.512 of the 1509
Revised Code. 1510

Sec. 4123.511. (A) Within seven days after receipt of any 1511
claim under this chapter, the bureau of workers' compensation 1512
shall notify the claimant and the employer of the claimant of the 1513
receipt of the claim and of the facts alleged therein. If the 1514
bureau receives from a person other than the claimant written or 1515
facsimile information or information communicated verbally over 1516
the telephone indicating that an injury or occupational disease 1517
has occurred or been contracted which may be compensable under 1518
this chapter, the bureau shall notify the employee and the 1519
employer of the information. If the information is provided 1520
verbally over the telephone, the person providing the information 1521
shall provide written verification of the information to the 1522
bureau according to division (E) of section 4123.84 of the Revised 1523
Code. The receipt of the information in writing or facsimile, or 1524
if initially by telephone, the subsequent written verification, 1525
and the notice by the bureau shall be considered an application 1526
for compensation under section 4123.84 or 4123.85 of the Revised 1527
Code, provided that the conditions of division (E) of section 1528
4123.84 of the Revised Code apply to information provided verbally 1529
over the telephone. Upon receipt of a claim, the bureau shall 1530
advise the claimant of the claim number assigned and the 1531
claimant's right to representation in the processing of a claim or 1532
to elect no representation. ~~If~~ 1533

To be considered eligible for compensation or benefits paid 1534
under this chapter or Chapter 4121., 4127., or 4131. of the 1535
Revised Code other than medical benefits as described in section 1536
4123.66 of the Revised Code, the claimant shall submit to the 1537
administrator of workers' compensation a signed attestation that 1538
the claimant is an eligible "employee" as that term is defined in 1539

section 4123.01 of the Revised Code or, if the claimant is a 1540
dependent of an individual who died as a result of suffering an 1541
injury or contracting an occupational disease, that the individual 1542
who is the subject of the claim was such an employee. The 1543
administrator shall not pay compensation or benefits, other than 1544
medical benefits described in section 4123.66 of the Revised Code, 1545
unless the administrator receives the signed attestation. The 1546
administrator, if the administrator has reason to believe that a 1547
submitted attestation is not valid, may request the claimant to 1548
submit proof to the administrator that the attestation is valid. 1549
The administrator shall make the request in writing and shall 1550
state in the request the type of proof necessary to determine 1551
validity and the date by which the claimant shall submit the 1552
proof. If a claimant fails to comply with the request, the 1553
administrator shall deny the claim for compensation or benefits 1554
other than medical benefits and the claimant is barred from 1555
refiling that claim for compensation or benefits. A denial of a 1556
claim for compensation or benefits for failing to comply with the 1557
written request may be appealed under this section and section 1558
4123.512 of the Revised Code. In the event a claimant provides a 1559
signed attestation required under this division and it is later 1560
determined that the claimant is or the deceased individual who is 1561
the subject of the claim was an illegal or unauthorized alien, the 1562
claimant shall be subject to prosecution for a violation of 1563
section 2913.48 of the Revised Code. 1564

If the bureau determines that a claim is determined to be a 1565
compensable lost-time claim, the bureau shall notify the claimant 1566
and the employer of the availability of rehabilitation services. 1567
No bureau or industrial commission employee shall directly or 1568
indirectly convey any information in derogation of this right. 1569
This section shall in no way abrogate the bureau's responsibility 1570
to aid and assist a claimant in the filing of a claim and to 1571
advise the claimant of the claimant's rights under the law. 1572

The administrator ~~of workers' compensation~~ shall assign all 1573
claims and investigations to the bureau service office from which 1574
investigation and determination may be made most expeditiously. 1575

The bureau shall investigate the facts concerning an injury 1576
or occupational disease and ascertain such facts in whatever 1577
manner is most appropriate and may obtain statements of the 1578
employee, employer, attending physician, and witnesses in whatever 1579
manner is most appropriate. 1580

The administrator, with the advice and consent of the bureau 1581
of workers' compensation board of directors, may adopt rules that 1582
identify specified medical conditions that have a historical 1583
record of being allowed whenever included in a claim. The 1584
administrator may grant immediate allowance of any medical 1585
condition identified in those rules upon the filing of a claim 1586
involving that medical condition and may make immediate payment of 1587
medical bills for any medical condition identified in those rules 1588
that is included in a claim. If an employer contests the allowance 1589
of a claim involving any medical condition identified in those 1590
rules, and the claim is disallowed, payment for the medical 1591
condition included in that claim shall be charged to and paid from 1592
the surplus fund account created under section 4123.34 of the 1593
Revised Code. 1594

(B) (1) Except as provided in division (B) (2) of this section, 1595
in claims other than those in which the employer is a 1596
self-insuring employer, if the administrator determines under 1597
division (A) of this section that a claimant is or is not entitled 1598
to an award of compensation or benefits, the administrator shall 1599
issue an order no later than twenty-eight days after the sending 1600
of the notice under division (A) of this section, granting or 1601
denying the payment of the compensation or benefits, or both as is 1602
appropriate to the claimant. Notwithstanding the time limitation 1603
specified in this division for the issuance of an order, if a 1604

medical examination of the claimant is required by statute, the 1605
administrator promptly shall schedule the claimant for that 1606
examination and shall issue an order no later than twenty-eight 1607
days after receipt of the report of the examination. The 1608
administrator shall notify the claimant and the employer of the 1609
claimant and their respective representatives in writing of the 1610
nature of the order and the amounts of compensation and benefit 1611
payments involved. The employer or claimant may appeal the order 1612
pursuant to division (C) of this section within fourteen days 1613
after the date of the receipt of the order. The employer and 1614
claimant may waive, in writing, their rights to an appeal under 1615
this division. 1616

(2) Notwithstanding the time limitation specified in division 1617
(B) (1) of this section for the issuance of an order, if the 1618
employer certifies a claim for payment of compensation or 1619
benefits, or both, to a claimant, and the administrator has 1620
completed the investigation of the claim, the payment of benefits 1621
or compensation, or both, as is appropriate, shall commence upon 1622
the later of the date of the certification or completion of the 1623
investigation and issuance of the order by the administrator, 1624
provided that the administrator shall issue the order no later 1625
than the time limitation specified in division (B) (1) of this 1626
section. 1627

(3) If an appeal is made under division (B) (1) or (2) of this 1628
section, the administrator shall forward the claim file to the 1629
appropriate district hearing officer within seven days of the 1630
appeal. In contested claims other than state fund claims, the 1631
administrator shall forward the claim within seven days of the 1632
administrator's receipt of the claim to the industrial commission, 1633
which shall refer the claim to an appropriate district hearing 1634
officer for a hearing in accordance with division (C) of this 1635
section. 1636

(C) If an employer or claimant timely appeals the order of the administrator issued under division (B) of this section or in the case of other contested claims other than state fund claims, the commission shall refer the claim to an appropriate district hearing officer according to rules the commission adopts under section 4121.36 of the Revised Code. The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing.

The district hearing officer shall hold a hearing on a disputed issue or claim within forty-five days after the filing of the appeal under this division and issue a decision within seven days after holding the hearing. The district hearing officer shall notify the parties and their respective representatives in writing of the order. Any party may appeal an order issued under this division pursuant to division (D) of this section within fourteen days after receipt of the order under this division.

(D) Upon the timely filing of an appeal of the order of the district hearing officer issued under division (C) of this section, the commission shall refer the claim file to an appropriate staff hearing officer according to its rules adopted under section 4121.36 of the Revised Code. The staff hearing officer shall hold a hearing within forty-five days after the filing of an appeal under this division and issue a decision within seven days after holding the hearing under this division. The staff hearing officer shall notify the parties and their respective representatives in writing of the staff hearing officer's order. Any party may appeal an order issued under this division pursuant to division (E) of this section within fourteen days after receipt of the order under this division.

(E) Upon the filing of a timely appeal of the order of the staff hearing officer issued under division (D) of this section, the commission or a designated staff hearing officer, on behalf of

the commission, shall determine whether the commission will hear 1669
the appeal. If the commission or the designated staff hearing 1670
officer decides to hear the appeal, the commission or the 1671
designated staff hearing officer shall notify the parties and 1672
their respective representatives in writing of the time and place 1673
of the hearing. The commission shall hold the hearing within 1674
forty-five days after the filing of the notice of appeal and, 1675
within seven days after the conclusion of the hearing, the 1676
commission shall issue its order affirming, modifying, or 1677
reversing the order issued under division (D) of this section. The 1678
commission shall notify the parties and their respective 1679
representatives in writing of the order. If the commission or the 1680
designated staff hearing officer determines not to hear the 1681
appeal, within fourteen days after the expiration of the period in 1682
which an appeal of the order of the staff hearing officer may be 1683
filed as provided in division (D) of this section, the commission 1684
or the designated staff hearing officer shall issue an order to 1685
that effect and notify the parties and their respective 1686
representatives in writing of that order. 1687

Except as otherwise provided in this chapter and Chapters 1688
4121., 4127., and 4131. of the Revised Code, any party may appeal 1689
an order issued under this division to the court pursuant to 1690
section 4123.512 of the Revised Code within sixty days after 1691
receipt of the order, subject to the limitations contained in that 1692
section. 1693

(F) Every notice of an appeal from an order issued under 1694
divisions (B), (C), (D), and (E) of this section shall state the 1695
names of the claimant and employer, the number of the claim, the 1696
date of the decision appealed from, and the fact that the 1697
appellant appeals therefrom. 1698

(G) All of the following apply to the proceedings under 1699
divisions (C), (D), and (E) of this section: 1700

(1) The parties shall proceed promptly and without 1701
continuances except for good cause; 1702

(2) The parties, in good faith, shall engage in the free 1703
exchange of information relevant to the claim prior to the conduct 1704
of a hearing according to the rules the commission adopts under 1705
section 4121.36 of the Revised Code; 1706

(3) The administrator is a party and may appear and 1707
participate at all administrative proceedings on behalf of the 1708
state insurance fund. However, in cases in which the employer is 1709
represented, the administrator shall neither present arguments nor 1710
introduce testimony that is cumulative to that presented or 1711
introduced by the employer or the employer's representative. The 1712
administrator may file an appeal under this section on behalf of 1713
the state insurance fund; however, except in cases arising under 1714
section 4123.343 of the Revised Code, the administrator only may 1715
appeal questions of law or issues of fraud when the employer 1716
appears in person or by representative. 1717

(H) Except as provided in section 4121.63 of the Revised Code 1718
and division (K) of this section, payments of compensation to a 1719
claimant or on behalf of a claimant as a result of any order 1720
issued under this chapter shall commence upon the earlier of the 1721
following: 1722

(1) Fourteen days after the date the administrator issues an 1723
order under division (B) of this section, unless that order is 1724
appealed; 1725

(2) The date when the employer has waived the right to appeal 1726
a decision issued under division (B) of this section; 1727

(3) If no appeal of an order has been filed under this 1728
section or to a court under section 4123.512 of the Revised Code, 1729
the expiration of the time limitations for the filing of an appeal 1730
of an order; 1731

(4) The date of receipt by the employer of an order of a district hearing officer, a staff hearing officer, or the industrial commission issued under division (C), (D), or (E) of this section.

(I) Except as otherwise provided in division (B) of section 4123.66 of the Revised Code, payments of medical benefits payable under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code shall commence upon the earlier of the following:

(1) The date of the issuance of the staff hearing officer's order under division (D) of this section;

(2) The date of the final administrative or judicial determination.

(J) The administrator shall charge the compensation payments made in accordance with division (H) of this section or medical benefits payments made in accordance with division (I) of this section to an employer's experience immediately after the employer has exhausted the employer's administrative appeals as provided in this section or has waived the employer's right to an administrative appeal under division (B) of this section, subject to the adjustment specified in division (H) of section 4123.512 of the Revised Code.

(K) Upon the final administrative or judicial determination under this section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is reversed upon subsequent appeal, the claimant's employer, if a self-insuring employer, or the bureau, shall withhold from any amount to which the claimant becomes entitled pursuant to any claim, past, present, or future, under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the amount of previously paid compensation to the claimant which, due to reversal upon appeal,

the claimant is not entitled, pursuant to the following criteria: 1763

(1) No withholding for the first twelve weeks of temporary 1764
total disability compensation pursuant to section 4123.56 of the 1765
Revised Code shall be made; 1766

(2) Forty per cent of all awards of compensation paid 1767
pursuant to sections 4123.56 and 4123.57 of the Revised Code, 1768
until the amount overpaid is refunded; 1769

(3) Twenty-five per cent of any compensation paid pursuant to 1770
section 4123.58 of the Revised Code until the amount overpaid is 1771
refunded; 1772

(4) If, pursuant to an appeal under section 4123.512 of the 1773
Revised Code, the court of appeals or the supreme court reverses 1774
the allowance of the claim, then no amount of any compensation 1775
will be withheld. 1776

The administrator and self-insuring employers, as 1777
appropriate, are subject to the repayment schedule of this 1778
division only with respect to an order to pay compensation that 1779
was properly paid under a previous order, but which is 1780
subsequently reversed upon an administrative or judicial appeal. 1781
The administrator and self-insuring employers are not subject to, 1782
but may utilize, the repayment schedule of this division, or any 1783
other lawful means, to collect payment of compensation made to a 1784
person who was not entitled to the compensation due to fraud as 1785
determined by the administrator or the industrial commission. 1786

(L) If a staff hearing officer or the commission fails to 1787
issue a decision or the commission fails to refuse to hear an 1788
appeal within the time periods required by this section, payments 1789
to a claimant shall cease until the staff hearing officer or 1790
commission issues a decision or hears the appeal, unless the 1791
failure was due to the fault or neglect of the employer or the 1792
employer agrees that the payments should continue for a longer 1793

period of time. 1794

(M) Except as otherwise provided in this section or section 1795
4123.522 of the Revised Code, no appeal is timely filed under this 1796
section unless the appeal is filed with the time limits set forth 1797
in this section. 1798

(N) No person who is not an employee of the bureau or 1799
commission or who is not by law given access to the contents of a 1800
claims file shall have a file in the person's possession. 1801

(O) Upon application of a party who resides in an area in 1802
which an emergency or disaster is declared, the industrial 1803
commission and hearing officers of the commission may waive the 1804
time frame within which claims and appeals of claims set forth in 1805
this section must be filed upon a finding that the applicant was 1806
unable to comply with a filing deadline due to an emergency or a 1807
disaster. 1808

As used in this division: 1809

(1) "Emergency" means any occasion or instance for which the 1810
governor of Ohio or the president of the United States publicly 1811
declares an emergency and orders state or federal assistance to 1812
save lives and protect property, the public health and safety, or 1813
to lessen or avert the threat of a catastrophe. 1814

(2) "Disaster" means any natural catastrophe or fire, flood, 1815
or explosion, regardless of the cause, that causes damage of 1816
sufficient magnitude that the governor of Ohio or the president of 1817
the United States, through a public declaration, orders state or 1818
federal assistance to alleviate damage, loss, hardship, or 1819
suffering that results from the occurrence. 1820

Sec. 4123.512. (A) The claimant or the employer may appeal an 1821
order of the industrial commission made under division (E) of 1822
section 4123.511 of the Revised Code in any injury or occupational 1823

disease case, other than a decision as to the extent of disability 1824
to the court of common pleas of the county in which the injury was 1825
inflicted or in which the contract of employment was made if the 1826
injury occurred outside the state, or in which the contract of 1827
employment was made if the exposure occurred outside the state. If 1828
no common pleas court has jurisdiction for the purposes of an 1829
appeal by the use of the jurisdictional requirements described in 1830
this division, the appellant may use the venue provisions in the 1831
Rules of Civil Procedure to vest jurisdiction in a court. If the 1832
claim is for an occupational disease, the appeal shall be to the 1833
court of common pleas of the county in which the exposure which 1834
caused the disease occurred. Like appeal may be taken from an 1835
order of a staff hearing officer made under division (D) of 1836
section 4123.511 of the Revised Code from which the commission has 1837
refused to hear an appeal. The Except as otherwise provided in 1838
this division, the appellant shall file the notice of appeal with 1839
a court of common pleas within sixty days after the date of the 1840
receipt of the order appealed from or the date of receipt of the 1841
order of the commission refusing to hear an appeal of a staff 1842
hearing officer's decision under division (D) of section 4123.511 1843
of the Revised Code. The Either the claimant or the employer may 1844
file a notice of an intent to settle the claim within thirty days 1845
after the date of the receipt of the order appealed from or of the 1846
order of the commission refusing to hear an appeal of a staff 1847
hearing officer's decision. The claimant or employer shall file 1848
notice of intent to settle with the administrator of workers' 1849
compensation, and the notice shall be served on the opposing party 1850
and the party's representative. The filing of the notice of intent 1851
to settle extends the time to file an appeal to one hundred fifty 1852
days, unless the opposing party files an objection to the notice 1853
of intent to settle within fourteen days after the date of the 1854
receipt of the notice of intent to settle. The party shall file 1855
the objection with the administrator, and the objection shall be 1856

served on the party that filed the notice of intent to settle and 1857
the party's representative. The filing of the notice of the appeal 1858
with the court is the only act required to perfect the appeal. 1859

If an action has been commenced in a court of a county other 1860
than a court of a county having jurisdiction over the action, the 1861
court, upon notice by any party or upon its own motion, shall 1862
transfer the action to a court of a county having jurisdiction. 1863

Notwithstanding anything to the contrary in this section, if 1864
the commission determines under section 4123.522 of the Revised 1865
Code that an employee, employer, or their respective 1866
representatives have not received written notice of an order or 1867
decision which is appealable to a court under this section and 1868
which grants relief pursuant to section 4123.522 of the Revised 1869
Code, the party granted the relief has sixty days from receipt of 1870
the order under section 4123.522 of the Revised Code to file a 1871
notice of appeal under this section. 1872

(B) The notice of appeal shall state the names of the 1873
administrator of workers' compensation, the claimant, and the 1874
employer; the number of the claim; the date of the order appealed 1875
from; and the fact that the appellant appeals therefrom. 1876

The administrator, the claimant, and the employer shall be 1877
parties to the appeal and the court, upon the application of the 1878
commission, shall make the commission a party. The party filing 1879
the appeal shall serve a copy of the notice of appeal on the 1880
administrator at the central office of the bureau of workers' 1881
compensation in Columbus. The administrator shall notify the 1882
employer that if the employer fails to become an active party to 1883
the appeal, then the administrator may act on behalf of the 1884
employer and the results of the appeal could have an adverse 1885
effect upon the employer's premium rates or may result in a 1886
recovery from the employer if the employer is determined to be a 1887
noncomplying employer under section 4123.75 of the Revised Code. 1888

(C) The attorney general or one or more of the attorney 1889
general's assistants or special counsel designated by the attorney 1890
general shall represent the administrator and the commission. In 1891
the event the attorney general or the attorney general's 1892
designated assistants or special counsel are absent, the 1893
administrator or the commission shall select one or more of the 1894
attorneys in the employ of the administrator or the commission as 1895
the administrator's attorney or the commission's attorney in the 1896
appeal. Any attorney so employed shall continue the representation 1897
during the entire period of the appeal and in all hearings thereof 1898
except where the continued representation becomes impractical. 1899

(D) Upon receipt of notice of appeal, the clerk of courts 1900
shall provide notice to all parties who are appellees and to the 1901
commission. 1902

The claimant shall, within thirty days after the filing of 1903
the notice of appeal, file a petition containing a statement of 1904
facts in ordinary and concise language showing a cause of action 1905
to participate or to continue to participate in the fund and 1906
setting forth the basis for the jurisdiction of the court over the 1907
action. Further pleadings shall be had in accordance with the 1908
Rules of Civil Procedure, provided that service of summons on such 1909
petition shall not be required and provided that the claimant may 1910
not dismiss the complaint without the employer's consent if the 1911
employer is the party that filed the notice of appeal to court 1912
pursuant to this section. The clerk of the court shall, upon 1913
receipt thereof, transmit by certified mail a copy thereof to each 1914
party named in the notice of appeal other than the claimant. Any 1915
party may file with the clerk prior to the trial of the action a 1916
deposition of any physician taken in accordance with the 1917
provisions of the Revised Code, which deposition may be read in 1918
the trial of the action even though the physician is a resident of 1919
or subject to service in the county in which the trial is had. The 1920

bureau of workers' compensation shall pay the cost of the 1921
stenographic deposition filed in court and of copies of the 1922
stenographic deposition for each party from the surplus fund and 1923
charge the costs thereof against the unsuccessful party if the 1924
claimant's right to participate or continue to participate is 1925
finally sustained or established in the appeal. In the event the 1926
deposition is taken and filed, the physician whose deposition is 1927
taken is not required to respond to any subpoena issued in the 1928
trial of the action. The court, or the jury under the instructions 1929
of the court, if a jury is demanded, shall determine the right of 1930
the claimant to participate or to continue to participate in the 1931
fund upon the evidence adduced at the hearing of the action. 1932

(E) The court shall certify its decision to the commission 1933
and the certificate shall be entered in the records of the court. 1934
Appeals from the judgment are governed by the law applicable to 1935
the appeal of civil actions. 1936

(F) The cost of any legal proceedings authorized by this 1937
section, including an attorney's fee to the claimant's attorney to 1938
be fixed by the trial judge, based upon the effort expended, in 1939
the event the claimant's right to participate or to continue to 1940
participate in the fund is established upon the final 1941
determination of an appeal, shall be taxed against the employer or 1942
the commission if the commission or the administrator rather than 1943
the employer contested the right of the claimant to participate in 1944
the fund. The attorney's fee shall not exceed ~~forty-two hundred~~ 1945
five thousand dollars. 1946

(G) If the finding of the court or the verdict of the jury is 1947
in favor of the claimant's right to participate in the fund, the 1948
commission and the administrator shall thereafter proceed in the 1949
matter of the claim as if the judgment were the decision of the 1950
commission, subject to the power of modification provided by 1951
section 4123.52 of the Revised Code. 1952

(H) (1) An appeal from an order issued under division (E) of 1953
section 4123.511 of the Revised Code or any action filed in court 1954
in a case in which an award of compensation or medical benefits 1955
has been made shall not stay the payment of compensation or 1956
medical benefits under the award, or payment for subsequent 1957
periods of total disability or medical benefits during the 1958
pendency of the appeal. If, in a final administrative or judicial 1959
action, it is determined that payments of compensation or 1960
benefits, or both, made to or on behalf of a claimant should not 1961
have been made, the amount thereof shall be charged to the surplus 1962
fund account under division (B) of section 4123.34 of the Revised 1963
Code. In the event the employer is a state risk, the amount shall 1964
not be charged to the employer's experience, and the administrator 1965
shall adjust the employer's account accordingly. In the event the 1966
employer is a self-insuring employer, the self-insuring employer 1967
shall deduct the amount from the paid compensation the 1968
self-insuring employer reports to the administrator under division 1969
(L) of section 4123.35 of the Revised Code. If an employer is a 1970
state risk and has paid an assessment for a violation of a 1971
specific safety requirement, and, in a final administrative or 1972
judicial action, it is determined that the employer did not 1973
violate the specific safety requirement, the administrator shall 1974
reimburse the employer from the surplus fund account under 1975
division (B) of section 4123.34 of the Revised Code for the amount 1976
of the assessment the employer paid for the violation. 1977

(2) (a) Notwithstanding a final determination that payments of 1978
benefits made to or on behalf of a claimant should not have been 1979
made, the administrator or self-insuring employer shall award 1980
payment of medical or vocational rehabilitation services submitted 1981
for payment after the date of the final determination if all of 1982
the following apply: 1983

(i) The services were approved and were rendered by the 1984

provider in good faith prior to the date of the final 1985
determination. 1986

(ii) The services were payable under division (I) of section 1987
4123.511 of the Revised Code prior to the date of the final 1988
determination. 1989

(iii) The request for payment is submitted within the time 1990
limit set forth in section 4123.52 of the Revised Code. 1991

(b) Payments made under division (H) (1) of this section shall 1992
be charged to the surplus fund account under division (B) of 1993
section 4123.34 of the Revised Code. If the employer of the 1994
employee who is the subject of a claim described in division 1995
(H) (2) (a) of this section is a state fund employer, the payments 1996
made under that division shall not be charged to the employer's 1997
experience. If that employer is a self-insuring employer, the 1998
self-insuring employer shall deduct the amount from the paid 1999
compensation the self-insuring employer reports to the 2000
administrator under division (L) of section 4123.35 of the Revised 2001
Code. 2002

(c) Division (H) (2) of this section shall apply only to a 2003
claim under this chapter or Chapter 4121., 4127., or 4131. of the 2004
Revised Code arising on or after July 29, 2011. 2005

(3) A self-insuring employer may elect to pay compensation 2006
and benefits under this section directly to an employee or an 2007
employee's dependents by filing an application with the bureau of 2008
workers' compensation not more than one hundred eighty days and 2009
not less than ninety days before the first day of the employer's 2010
next six-month coverage period. If the self-insuring employer 2011
timely files the application, the application is effective on the 2012
first day of the employer's next six-month coverage period, 2013
provided that the administrator shall compute the employer's 2014
assessment for the surplus fund account due with respect to the 2015

period during which that application was filed without regard to 2016
the filing of the application. On and after the effective date of 2017
the employer's election, the self-insuring employer shall pay 2018
directly to an employee or to an employee's dependents 2019
compensation and benefits under this section regardless of the 2020
date of the injury or occupational disease, and the employer shall 2021
receive no money or credits from the surplus fund account on 2022
account of those payments and shall not be required to pay any 2023
amounts into the surplus fund account on account of this section. 2024
The election made under this division is irrevocable. 2025

(I) All actions and proceedings under this section which are 2026
the subject of an appeal to the court of common pleas or the court 2027
of appeals shall be preferred over all other civil actions except 2028
election causes, irrespective of position on the calendar. 2029

This section applies to all decisions of the commission or 2030
the administrator on November 2, 1959, and all claims filed 2031
thereafter are governed by sections 4123.511 and 4123.512 of the 2032
Revised Code. 2033

Any action pending in common pleas court or any other court 2034
on January 1, 1986, under this section is governed by former 2035
sections 4123.514, 4123.515, 4123.516, and 4123.519 and section 2036
4123.522 of the Revised Code. 2037

Sec. 4123.513. (A) Except as otherwise provided in divisions 2038
(B) and (C) of this section, if a claim is denied because the 2039
claimant is, or if the claimant is a dependent of an individual 2040
who died as a result of suffering an injury or contracting an 2041
occupational disease, that individual was an unauthorized alien, 2042
the claimant's employer or the individual's employer is not liable 2043
to that claimant for damages suffered by reason of personal injury 2044
sustained or occupational disease contracted in the course of 2045
employment caused by the wrongful act or omission or neglect of 2046

the employer. For such a claimant, filing a claim under Chapter 2047
4121., 4123., 4127., or 4131. of the Revised Code is the exclusive 2048
remedy against the employer on account of injury, disease, or 2049
death in the course of and arising out of the claimant's or 2050
deceased employee's employment. Notwithstanding section 4123.77 of 2051
the Revised Code and except as provided in division (B) of this 2052
section, an irrebuttable presumption exists that the individual 2053
assumed the risk of incurring an injury or contracting an 2054
occupational disease at the workplace, or dying as a result of 2055
such an injury or occupational disease, when performing services 2056
or providing labor for that employer. 2057

(B) An employer is liable to a claimant whose claim is denied 2058
because the claimant is or the deceased individual who is the 2059
subject of the claim was an unauthorized alien for damages 2060
suffered by reason of personal injury sustained or occupational 2061
disease contracted in the course of employment caused by the 2062
wrongful act or omission or neglect of the employer if the 2063
claimant establishes, by clear and convincing evidence, that the 2064
employer hired the claimant or the deceased individual knowing 2065
that the claimant or deceased individual was not authorized to 2066
work under section 101(a) of the "Immigration Reform and Control 2067
Act of 1986," 100 Stat. 3360, 8 U.S.C. 1324a. There is a 2068
rebuttable presumption that an employer did not hire a person 2069
knowing the person was an illegal alien or unauthorized alien if 2070
the employer has complied with the requirements of section 101(a) 2071
of the "Immigration Reform and Control Act of 1986," 100 Stat. 2072
3360, 8 U.S.C. 1324a. An employer may not assert any of the common 2073
law defenses listed in section 4123.77 of the Revised Code in an 2074
action brought against the employer pursuant to this section. 2075

(C) Nothing in this section shall be construed to prevent a 2076
claimant whose claim is denied because the claimant is or the 2077
deceased individual who is the subject of the claim was an 2078

unauthorized alien from bringing a claim against an employer in a 2079
court of competent jurisdiction for an intentional tort allegedly 2080
committed by the employer against the claimant or deceased 2081
individual who was the subject of the claim. 2082

Sec. 4123.53. (A) The administrator of workers' compensation 2083
or the industrial commission may require any employee claiming the 2084
right to receive compensation to submit to a medical examination, 2085
vocational evaluation, or vocational questionnaire at any time, 2086
and from time to time, at a place reasonably convenient for the 2087
employee, and as provided by the rules of the commission or the 2088
administrator of workers' compensation. A claimant required by the 2089
commission or administrator to submit to a medical examination or 2090
vocational evaluation, at a point outside of the place of 2091
permanent or temporary residence of the claimant, as provided in 2092
this section, is entitled to have paid to the claimant by the 2093
bureau of workers' compensation the necessary and actual expenses 2094
on account of the attendance for the medical examination or 2095
vocational evaluation after approval of the expense statement by 2096
the bureau. Under extraordinary circumstances and with the 2097
unanimous approval of the commission, if the commission requires 2098
the medical examination or vocational evaluation, or with the 2099
approval of the administrator, if the administrator requires the 2100
medical examination or vocational evaluation, the bureau shall pay 2101
an injured or diseased employee the necessary, actual, and 2102
authorized expenses of treatment at a point outside the place of 2103
permanent or temporary residence of the claimant. 2104

(B) ~~When~~ (1) Except as provided in divisions (B) (2) and (3) 2105
of this section, when an employee initially receives temporary 2106
total disability compensation pursuant to section 4123.56 of the 2107
Revised Code for a consecutive ninety-day period, the 2108
administrator shall refer the employee to the bureau medical 2109
section ~~for~~ to schedule a medical examination to determine the 2110

employee's continued entitlement to such compensation, the 2111
employee's rehabilitation potential, and the appropriateness of 2112
the medical treatment the employee is receiving. The bureau 2113
medical section shall ~~conduct~~ schedule the examination for a date 2114
not later than thirty days following the end of the initial 2115
ninety-day period. If the medical examiner, upon an initial or any 2116
subsequent examination recommended by the medical examiner under 2117
this division, determines that the employee is temporarily and 2118
totally impaired, the medical examiner shall recommend a date when 2119
the employee should be reexamined. Upon the issuance of the 2120
medical examination report containing a recommendation for 2121
reexamination, the administrator shall schedule an examination 2122
and, if at the date of reexamination the employee is receiving 2123
temporary total disability compensation, the employee shall be 2124
examined. ~~The~~ 2125

(2) The administrator, for good cause, may waive the 2126
scheduling of a medical examination under division (B)(1) of this 2127
section. If the employee's employer objects to the administrator's 2128
waiver, the administrator shall refer the employee to the bureau 2129
medical section to schedule the examination or the administrator 2130
shall schedule the examination. 2131

(3) The administrator shall adopt a rule, pursuant to Chapter 2132
119. of the Revised Code, permitting employers to waive the 2133
administrator's scheduling of any such examinations. 2134

(C) If an employee refuses to submit to any medical 2135
examination or vocational evaluation scheduled pursuant to this 2136
section or obstructs the same, or refuses to complete and submit 2137
to the bureau or commission a vocational questionnaire within 2138
thirty days after the bureau or commission mails the request to 2139
complete and submit the questionnaire the employee's right to have 2140
~~his or her~~ the employee's claim for compensation considered, if 2141
the claim is pending before the bureau or commission, or to 2142

receive any payment for compensation theretofore granted, is 2143
suspended during the period of the refusal or obstruction. 2144
Notwithstanding this section, an employee's failure to submit to a 2145
medical examination or vocational evaluation, or to complete and 2146
submit a vocational questionnaire, shall not result in the 2147
dismissal of the employee's claim. 2148

(D) Medical examinations scheduled under this section do not 2149
limit medical examinations provided for in other provisions of 2150
this chapter or Chapter 4121. of the Revised Code. 2151

Sec. 4123.54. (A) Except as otherwise provided in this 2152
division or divisions (I) and (K) of this section, every employee, 2153
who is injured or who contracts an occupational disease, and the 2154
dependents of each employee who is killed, or dies as the result 2155
of an occupational disease contracted in the course of employment, 2156
wherever the injury has occurred or occupational disease has been 2157
contracted, is entitled to receive the compensation for loss 2158
sustained on account of the injury, occupational disease, or 2159
death, and the medical, nurse, and hospital services and 2160
medicines, and the amount of funeral expenses in case of death, as 2161
are provided by this chapter. The compensation and benefits shall 2162
be provided, as applicable, directly from the employee's 2163
self-insuring employer as provided in section 4123.35 of the 2164
Revised Code or from the state insurance fund. An employee or 2165
dependent is not entitled to receive compensation or benefits 2166
under this division if the employee's injury or occupational 2167
disease is either of the following: 2168

(1) Purposely self-inflicted; 2169

(2) Caused by the employee being intoxicated, under the 2170
influence of a controlled substance not prescribed by a physician, 2171
or under the influence of marihuana if being intoxicated, under 2172
the influence of a controlled substance not prescribed by a 2173

physician, or under the influence of marihuana was the proximate 2174
cause of the injury. 2175

(B) For the purpose of this section, provided that an 2176
employer has posted written notice to employees that the results 2177
of, or the employee's refusal to submit to, any chemical test 2178
described under this division may affect the employee's 2179
eligibility for compensation and benefits pursuant to this chapter 2180
and Chapter 4121. of the Revised Code, there is a rebuttable 2181
presumption that an employee is intoxicated, under the influence 2182
of a controlled substance not prescribed by the employee's 2183
physician, or under the influence of marihuana and that being 2184
intoxicated, under the influence of a controlled substance not 2185
prescribed by the employee's physician, or under the influence of 2186
marihuana is the proximate cause of an injury under either of the 2187
following conditions: 2188

(1) When ~~any one or more~~ either of the following is true: 2189

(a) The employee, through a qualifying chemical test 2190
administered within eight hours of an injury, is determined to 2191
have an alcohol concentration level equal to or in excess of the 2192
levels established in divisions (A) (1) (b) to (i) of section 2193
4511.19 of the Revised Code. 2194

(b) The employee, through a qualifying chemical test 2195
administered within thirty-two hours of an injury, is determined 2196
to have ~~one of the following~~ a controlled substance substance not 2197
prescribed by the employee's physician or marihuana in the 2198
employee's system ~~that tests above the following levels in an~~ 2199
~~enzyme multiplied immunoassay technique screening test and above~~ 2200
~~the levels established in division (B) (1) (c) of this section in a~~ 2201
~~gas chromatography mass spectrometry test.~~ 2202

~~(i) For amphetamines, one thousand nanograms per milliliter~~ 2203
~~of urine,~~ 2204

~~(ii) For cannabinoids, fifty nanograms per milliliter of~~ 2205
~~urine,~~ 2206

~~(iii) For cocaine, including crack cocaine, three hundred~~ 2207
~~nanograms per milliliter of urine,~~ 2208

~~(iv) For opiates, two thousand nanograms per milliliter of~~ 2209
~~urine,~~ 2210

~~(v) For phenacyclidine, twenty-five nanograms per milliliter~~ 2211
~~of urine.~~ 2212

~~(e) The employee, through a qualifying chemical test~~ 2213
~~administered within thirty-two hours of an injury, is determined~~ 2214
~~to have one of the following controlled substances not prescribed~~ 2215
~~by the employee's physician or marihuana in the employee's system~~ 2216
~~that tests above the following levels by a gas chromatography mass~~ 2217
~~spectrometry test.~~ 2218

~~(i) For amphetamines, five hundred nanograms per milliliter~~ 2219
~~of urine,~~ 2220

~~(ii) For cannabinoids, fifteen nanograms per milliliter of~~ 2221
~~urine,~~ 2222

~~(iii) For cocaine, including crack cocaine, one hundred fifty~~ 2223
~~nanograms per milliliter of urine,~~ 2224

~~(iv) For opiates, two thousand nanograms per milliliter of~~ 2225
~~urine,~~ 2226

~~(v) For phenacyclidine, twenty-five nanograms per milliliter~~ 2227
~~of urine.~~ 2228

~~(d) at a level equal to or in excess of the cutoff~~ 2229
~~concentration level for the particular substance as provided in~~ 2230
~~section 40.87 of Title 49 of the Code of Federal Regulations, 49~~ 2231
~~C.F.R. 40.87, as amended.~~ 2232

(c) The employee, through a qualifying chemical test 2233
administered within thirty-two hours of an injury, is determined 2234

to have barbiturates, benzodiazepines, or methadone, ~~or~~ 2235
~~propoxyphene~~ in the employee's system that tests above levels 2236
established by laboratories certified by the United States 2237
department of health and human services. 2238

(2) When the employee refuses to submit to a requested 2239
chemical test, on the condition that that employee is or was given 2240
notice that the refusal to submit to any chemical test described 2241
in division (B) (1) of this section may affect the employee's 2242
eligibility for compensation and benefits under this chapter and 2243
Chapter 4121. of the Revised Code. 2244

(C) (1) For purposes of division (B) of this section, a 2245
chemical test is a qualifying chemical test if it is administered 2246
to an employee after an injury under at least one of the following 2247
conditions: 2248

(a) When the employee's employer had reasonable cause to 2249
suspect that the employee may be intoxicated, under the influence 2250
of a controlled substance not prescribed by the employee's 2251
physician, or under the influence of marihuana; 2252

(b) At the request of a police officer pursuant to section 2253
4511.191 of the Revised Code, and not at the request of the 2254
employee's employer; 2255

(c) At the request of a licensed physician who is not 2256
employed by the employee's employer, and not at the request of the 2257
employee's employer. 2258

(2) As used in division (C) (1) (a) of this section, 2259
"reasonable cause" means, but is not limited to, evidence that an 2260
employee is or was using alcohol, a controlled substance, or 2261
marihuana drawn from specific, objective facts and reasonable 2262
inferences drawn from these facts in light of experience and 2263
training. These facts and inferences may be based on, but are not 2264
limited to, any of the following: 2265

(a) Observable phenomena, such as direct observation of use, 2266
possession, or distribution of alcohol, a controlled substance, or 2267
marihuana, or of the physical symptoms of being under the 2268
influence of alcohol, a controlled substance, or marihuana, such 2269
as but not limited to slurred speech; dilated pupils; odor of 2270
alcohol, a controlled substance, or marihuana; changes in affect; 2271
or dynamic mood swings; 2272

(b) A pattern of abnormal conduct, erratic or aberrant 2273
behavior, or deteriorating work performance such as frequent 2274
absenteeism, excessive tardiness, or recurrent accidents, that 2275
appears to be related to the use of alcohol, a controlled 2276
substance, or marihuana, and does not appear to be attributable to 2277
other factors; 2278

(c) The identification of an employee as the focus of a 2279
criminal investigation into unauthorized possession, use, or 2280
trafficking of a controlled substance or marihuana; 2281

(d) A report of use of alcohol, a controlled substance, or 2282
marihuana provided by a reliable and credible source; 2283

(e) Repeated or flagrant violations of the safety or work 2284
rules of the employee's employer, that are determined by the 2285
employee's supervisor to pose a substantial risk of physical 2286
injury or property damage and that appear to be related to the use 2287
of alcohol, a controlled substance, or marihuana and that do not 2288
appear attributable to other factors. 2289

(D) Nothing in this section shall be construed to affect the 2290
rights of an employer to test employees for alcohol or controlled 2291
substance abuse. 2292

(E) For the purpose of this section, laboratories certified 2293
by the United States department of health and human services or 2294
laboratories that meet or exceed the standards of that department 2295
for laboratory certification shall be used for processing the test 2296

results of a qualifying chemical test. 2297

(F) The written notice required by division (B) of this 2298
section shall be the same size or larger than the proof of 2299
workers' compensation coverage furnished by the bureau of workers' 2300
compensation and shall be posted by the employer in the same 2301
location as the proof of workers' compensation coverage or the 2302
certificate of self-insurance. 2303

(G) If a condition that pre-existed an injury is 2304
substantially aggravated by the injury, and that substantial 2305
aggravation is documented by objective diagnostic findings, 2306
objective clinical findings, or objective test results, no 2307
compensation or benefits are payable because of the pre-existing 2308
condition once that condition has returned to a level that would 2309
have existed without the injury. 2310

(H) (1) Whenever, with respect to an employee of an employer 2311
who is subject to and has complied with this chapter, there is 2312
possibility of conflict with respect to the application of 2313
workers' compensation laws because the contract of employment is 2314
entered into and all or some portion of the work is or is to be 2315
performed in a state or states other than Ohio, the employer and 2316
the employee may agree to be bound by the laws of this state or by 2317
the laws of some other state in which all or some portion of the 2318
work of the employee is to be performed. The agreement shall be in 2319
writing and shall be filed with the bureau of workers' 2320
compensation within ten days after it is executed and shall remain 2321
in force until terminated or modified by agreement of the parties 2322
similarly filed. If the agreement is to be bound by the laws of 2323
this state and the employer has complied with this chapter, then 2324
the employee is entitled to compensation and benefits regardless 2325
of where the injury occurs or the disease is contracted and the 2326
rights of the employee and the employee's dependents under the 2327
laws of this state are the exclusive remedy against the employer 2328

on account of injury, disease, or death in the course of and 2329
arising out of the employee's employment. If the agreement is to 2330
be bound by the laws of another state and the employer has 2331
complied with the laws of that state, the rights of the employee 2332
and the employee's dependents under the laws of that state are the 2333
exclusive remedy against the employer on account of injury, 2334
disease, or death in the course of and arising out of the 2335
employee's employment without regard to the place where the injury 2336
was sustained or the disease contracted. If an employer and an 2337
employee enter into an agreement under this division, the fact 2338
that the employer and the employee entered into that agreement 2339
shall not be construed to change the status of an employee whose 2340
continued employment is subject to the will of the employer or the 2341
employee, unless the agreement contains a provision that expressly 2342
changes that status. 2343

(2) If an employee or the employee's dependents receive an 2344
award of compensation or benefits under this chapter or Chapter 2345
4121., 4127., or 4131. of the Revised Code for the same injury, 2346
occupational disease, or death for which the employee or the 2347
employee's dependents previously pursued or otherwise elected to 2348
accept workers' compensation benefits and received a decision on 2349
the merits as defined in section 4123.542 of the Revised Code 2350
under the laws of another state or recovered damages under the 2351
laws of another state, the claim shall be disallowed and the 2352
administrator or any self-insuring employer, by any lawful means, 2353
may collect from the employee or the employee's dependents any of 2354
the following: 2355

(a) The amount of compensation or benefits paid to or on 2356
behalf of the employee or the employee's dependents by the 2357
administrator or a self-insuring employer pursuant to this chapter 2358
or Chapter 4121., 4127., or 4131. of the Revised Code for that 2359
award; 2360

(b) Any interest, attorney's fees, and costs the 2361
administrator or the self-insuring employer incurs in collecting 2362
that payment. 2363

(3) If an employee or the employee's dependents receive an 2364
award of compensation or benefits under this chapter or Chapter 2365
4121., 4127., or 4131. of the Revised Code and subsequently pursue 2366
or otherwise elect to accept workers' compensation benefits or 2367
damages under the laws of another state for the same injury, 2368
occupational disease, or death the claim under this chapter or 2369
Chapter 4121., 4127., or 4131. of the Revised Code shall be 2370
disallowed. The administrator or a self-insuring employer, by any 2371
lawful means, may collect from the employee or the employee's 2372
dependents or other-states' insurer any of the following: 2373

(a) The amount of compensation or benefits paid to or on 2374
behalf of the employee or the employee's dependents by the 2375
administrator or the self-insuring employer pursuant to this 2376
chapter or Chapter 4121., 4127., or 4131. of the Revised Code for 2377
that award; 2378

(b) Any interest, costs, and attorney's fees the 2379
administrator or the self-insuring employer incurs in collecting 2380
that payment; 2381

(c) Any costs incurred by an employer in contesting or 2382
responding to any claim filed by the employee or the employee's 2383
dependents for the same injury, occupational disease, or death 2384
that was filed after the original claim for which the employee or 2385
the employee's dependents received a decision on the merits as 2386
described in section 4123.542 of the Revised Code. 2387

(4) If the employee's employer pays premiums into the state 2388
insurance fund, the administrator shall not charge the amount of 2389
compensation or benefits the administrator collects pursuant to 2390
division (H) (2) or (3) of this section to the employer's 2391

experience. If the administrator collects any costs incurred by an 2392
employer in contesting or responding to any claim pursuant to 2393
division (H) (2) or (3) of this section, the administrator shall 2394
forward the amount collected to that employer. If the employee's 2395
employer is a self-insuring employer, the self-insuring employer 2396
shall deduct the amount of compensation or benefits the 2397
self-insuring employer collects pursuant to this division from the 2398
paid compensation the self-insuring employer reports to the 2399
administrator under division (L) of section 4123.35 of the Revised 2400
Code. 2401

(5) If an employee is a resident of a state other than this 2402
state and is insured under the workers' compensation law or 2403
similar laws of a state other than this state, the employee and 2404
the employee's dependents are not entitled to receive compensation 2405
or benefits under this chapter, on account of injury, disease, or 2406
death arising out of or in the course of employment while 2407
temporarily within this state, and the rights of the employee and 2408
the employee's dependents under the laws of the other state are 2409
the exclusive remedy against the employer on account of the 2410
injury, disease, or death. 2411

(6) An employee, or the dependent of an employee, who elects 2412
to receive compensation and benefits under this chapter or Chapter 2413
4121., 4127., or 4131. of the Revised Code for a claim may not 2414
receive compensation and benefits under the workers' compensation 2415
laws of any state other than this state for that same claim. For 2416
each claim submitted by or on behalf of an employee, the 2417
administrator or, if the employee is employed by a self-insuring 2418
employer, the self-insuring employer, shall request the employee 2419
or the employee's dependent to sign an election that affirms the 2420
employee's or employee's dependent's acceptance of electing to 2421
receive compensation and benefits under this chapter or Chapter 2422
4121., 4127., or 4131. of the Revised Code for that claim that 2423

also affirmatively waives and releases the employee's or the 2424
employee's dependent's right to file for and receive compensation 2425
and benefits under the laws of any state other than this state for 2426
that claim. The employee or employee's dependent shall sign the 2427
election form within twenty-eight days after the administrator or 2428
self-insuring employer submits the request or the administrator or 2429
self-insuring employer shall dismiss that claim. 2430

In the event a workers' compensation claim has been filed in 2431
another jurisdiction on behalf of an employee or the dependents of 2432
an employee, and the employee or dependents subsequently elect to 2433
receive compensation, benefits, or both under this chapter or 2434
Chapter 4121., 4127., or 4131. of the Revised Code, the employee 2435
or dependent shall withdraw or refuse acceptance of the workers' 2436
compensation claim filed in the other jurisdiction in order to 2437
pursue compensation or benefits under the laws of this state. If 2438
the employee or dependents were awarded workers' compensation 2439
benefits or had recovered damages under the laws of the other 2440
state, any compensation and benefits awarded under this chapter or 2441
Chapter 4121., 4127., or 4131. of the Revised Code shall be paid 2442
only to the extent to which those payments exceed the amounts paid 2443
under the laws of the other state. If the employee or dependent 2444
fails to withdraw or to refuse acceptance of the workers' 2445
compensation claim in the other jurisdiction within twenty-eight 2446
days after a request made by the administrator or a self-insuring 2447
employer, the administrator or self-insuring employer shall 2448
dismiss the employee's or employee's dependents' claim made in 2449
this state. 2450

(I) If an employee who is covered under the federal 2451
"Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 2452
33 U.S.C. 901 et seq., is injured or contracts an occupational 2453
disease or dies as a result of an injury or occupational disease, 2454
and if that employee's or that employee's dependents' claim for 2455

compensation or benefits for that injury, occupational disease, or 2456
death is subject to the jurisdiction of that act, the employee or 2457
the employee's dependents are not entitled to apply for and shall 2458
not receive compensation or benefits under this chapter and 2459
Chapter 4121. of the Revised Code. The rights of such an employee 2460
and the employee's dependents under the federal "Longshore and 2461
Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et 2462
seq., are the exclusive remedy against the employer for that 2463
injury, occupational disease, or death. 2464

(J) Compensation or benefits are not payable to a claimant or 2465
a dependent during the period of confinement of the claimant or 2466
dependent in any state or federal correctional institution, or in 2467
any county jail in lieu of incarceration in a state or federal 2468
correctional institution, whether in this or any other state for 2469
conviction of violation of any state or federal criminal law. 2470

(K) An employer, upon the approval of the administrator, may 2471
provide for workers' compensation coverage for the employer's 2472
employees who are professional athletes and coaches by submitting 2473
to the administrator proof of coverage under a league policy 2474
issued under the laws of another state under either of the 2475
following circumstances: 2476

(1) The employer administers the payroll and workers' 2477
compensation insurance for a professional sports team subject to a 2478
collective bargaining agreement, and the collective bargaining 2479
agreement provides for the uniform administration of workers' 2480
compensation benefits and compensation for professional athletes. 2481

(2) The employer is a professional sports league, or is a 2482
member team of a professional sports league, and all of the 2483
following apply: 2484

(a) The professional sports league operates as a single 2485
entity, whereby all of the players and coaches of the sports 2486

league are employees of the sports league and not of the 2487
individual member teams. 2488

(b) The professional sports league at all times maintains 2489
workers' compensation insurance that provides coverage for the 2490
players and coaches of the sports league. 2491

(c) Each individual member team of the professional sports 2492
league, pursuant to the organizational or operating documents of 2493
the sports league, is obligated to the sports league to pay to the 2494
sports league any workers' compensation claims that are not 2495
covered by the workers' compensation insurance maintained by the 2496
sports league. 2497

If the administrator approves the employer's proof of 2498
coverage submitted under division (K) of this section, a 2499
professional athlete or coach who is an employee of the employer 2500
and the dependents of the professional athlete or coach are not 2501
entitled to apply for and shall not receive compensation or 2502
benefits under this chapter and Chapter 4121. of the Revised Code. 2503
The rights of such an athlete or coach and the dependents of such 2504
an athlete or coach under the laws of the state where the policy 2505
was issued are the exclusive remedy against the employer for the 2506
athlete or coach if the athlete or coach suffers an injury or 2507
contracts an occupational disease in the course of employment, or 2508
for the dependents of the athlete or the coach if the athlete or 2509
coach is killed as a result of an injury or dies as a result of an 2510
occupational disease, regardless of the location where the injury 2511
was suffered or the occupational disease was contracted. 2512

Sec. 4123.56. (A) Except as provided in division (D) of this 2513
section, in the case of temporary disability, an employee shall 2514
receive sixty-six and two-thirds per cent of the employee's 2515
average weekly wage so long as such disability is total, not to 2516
exceed a maximum amount of weekly compensation which is equal to 2517

the statewide average weekly wage as defined in division (C) of 2518
section 4123.62 of the Revised Code, and not less than a minimum 2519
amount of compensation which is equal to thirty-three and 2520
one-third per cent of the statewide average weekly wage as defined 2521
in division (C) of section 4123.62 of the Revised Code unless the 2522
employee's wage is less than thirty-three and one-third per cent 2523
of the minimum statewide average weekly wage, in which event the 2524
employee shall receive compensation equal to the employee's full 2525
wages; provided that for the first twelve weeks of total 2526
disability the employee shall receive seventy-two per cent of the 2527
employee's full weekly wage, but not to exceed a maximum amount of 2528
weekly compensation which is equal to the lesser of the statewide 2529
average weekly wage as defined in division (C) of section 4123.62 2530
of the Revised Code or one hundred per cent of the employee's net 2531
take-home weekly wage. In the case of a self-insuring employer, 2532
payments shall be for a duration based upon the medical reports of 2533
the attending physician. If the employer disputes the attending 2534
physician's report, payments may be terminated only upon 2535
application and hearing by a district hearing officer pursuant to 2536
division (C) of section 4123.511 of the Revised Code. Payments 2537
shall continue pending the determination of the matter, however 2538
payment shall not be made for the period when any employee has 2539
returned to work, when an employee's treating physician has made a 2540
written statement that the employee is capable of returning to the 2541
employee's former position of employment, when work within the 2542
physical capabilities of the employee is made available by the 2543
employer or another employer, or when the employee has reached the 2544
maximum medical improvement. Where the employee is capable of work 2545
activity, but the employee's employer is unable to offer the 2546
employee any employment, the employee shall register with the 2547
director of job and family services, who shall assist the employee 2548
in finding suitable employment. The termination of temporary total 2549
disability, whether by order or otherwise, does not preclude the 2550

commencement of temporary total disability at another point in 2551
time if the employee again becomes temporarily totally disabled. 2552

After two hundred weeks of temporary total disability 2553
benefits, the medical section of the bureau of workers' 2554
compensation shall schedule the claimant for an examination for an 2555
evaluation to determine whether or not the temporary disability 2556
has become permanent. A self-insuring employer shall notify the 2557
bureau immediately after payment of two hundred weeks of temporary 2558
total disability and request that the bureau schedule the claimant 2559
for such an examination. 2560

When the employee is awarded compensation for temporary total 2561
disability for a period for which the employee has received 2562
benefits under Chapter 4141. of the Revised Code, the bureau shall 2563
pay an amount equal to the amount received from the award to the 2564
director of job and family services and the director shall credit 2565
the amount to the accounts of the employers to whose accounts the 2566
payment of benefits was charged or is chargeable to the extent it 2567
was charged or is chargeable. 2568

If any compensation under this section has been paid for the 2569
same period or periods for which temporary nonoccupational 2570
accident and sickness insurance is or has been paid pursuant to an 2571
insurance policy or program to which the employer has made the 2572
entire contribution or payment for providing insurance or under a 2573
nonoccupational accident and sickness program fully funded by the 2574
employer, except as otherwise provided in this division 2575
compensation paid under this section for the period or periods 2576
shall be paid only to the extent by which the payment or payments 2577
exceeds the amount of the nonoccupational insurance or program 2578
paid or payable. Offset of the compensation shall be made only 2579
upon the prior order of the bureau or industrial commission or 2580
agreement of the claimant. If an employer provides supplemental 2581
sick leave benefits in addition to temporary total disability 2582

compensation paid under this section, and if the employer and an 2583
employee agree in writing to the payment of the supplemental sick 2584
leave benefits, temporary total disability benefits may be paid 2585
without an offset for those supplemental sick leave benefits. 2586

As used in this division, "net take-home weekly wage" means 2587
the amount obtained by dividing an employee's total remuneration, 2588
as defined in section 4141.01 of the Revised Code, paid to or 2589
earned by the employee during the first four of the last five 2590
completed calendar quarters which immediately precede the first 2591
day of the employee's entitlement to benefits under this division, 2592
by the number of weeks during which the employee was paid or 2593
earned remuneration during those four quarters, less the amount of 2594
local, state, and federal income taxes deducted for each such 2595
week. 2596

(B) (1) If an employee in a claim allowed under this chapter 2597
suffers a wage loss as a result of returning to employment other 2598
than the employee's former position of employment due to an injury 2599
or occupational disease, the employee shall receive compensation 2600
at sixty-six and two-thirds per cent of the difference between the 2601
employee's average weekly wage and the employee's present earnings 2602
not to exceed the statewide average weekly wage. The payments may 2603
continue for up to a maximum of two hundred weeks, but the 2604
payments shall be reduced by the corresponding number of weeks in 2605
which the employee receives payments pursuant to division (A) (2) 2606
of section 4121.67 of the Revised Code. 2607

(2) If an employee in a claim allowed under this chapter 2608
suffers a wage loss as a result of being unable to find employment 2609
consistent with the employee's disability resulting from the 2610
employee's injury or occupational disease, the employee shall 2611
receive compensation at sixty-six and two-thirds per cent of the 2612
difference between the employee's average weekly wage and the 2613
employee's present earnings, not to exceed the statewide average 2614

weekly wage. The payments may continue for up to a maximum of 2615
fifty-two weeks. The first twenty-six weeks of payments under 2616
division (B) (2) of this section shall be in addition to the 2617
maximum of two hundred weeks of payments allowed under division 2618
(B) (1) of this section. If an employee in a claim allowed under 2619
this chapter receives compensation under division (B) (2) of this 2620
section in excess of twenty-six weeks, the number of weeks of 2621
compensation allowable under division (B) (1) of this section shall 2622
be reduced by the corresponding number of weeks in excess of 2623
twenty-six, and up to fifty-two, that is allowable under division 2624
(B) (1) of this section. 2625

(3) The number of weeks of wage loss payable to an employee 2626
under divisions (B) (1) and (2) of this section shall not exceed 2627
two hundred and twenty-six weeks in the aggregate. 2628

(C) In the event an employee of a professional sports 2629
franchise domiciled in this state is disabled as the result of an 2630
injury or occupational disease, the total amount of payments made 2631
under a contract of hire or collective bargaining agreement to the 2632
employee during a period of disability is deemed an advanced 2633
payment of compensation payable under sections 4123.56 to 4123.58 2634
of the Revised Code. The employer shall be reimbursed the total 2635
amount of the advanced payments out of any award of compensation 2636
made pursuant to sections 4123.56 to 4123.58 of the Revised Code. 2637

(D) If an employee receives temporary total disability 2638
benefits pursuant to division (A) of this section and social 2639
security retirement benefits pursuant to the "Social Security 2640
Act," the weekly benefit amount under division (A) of this section 2641
shall not exceed sixty-six and two-thirds per cent of the 2642
statewide average weekly wage as defined in division (C) of 2643
section 4123.62 of the Revised Code. 2644

(E) If an employee is eligible for compensation under 2645
division (A) of this section, but the employee's full weekly wage 2646

has not been determined at the time payments are to commence under 2647
division (H) of section 4123.511 of the Revised Code, the employee 2648
shall receive thirty-three and one-third per cent of the statewide 2649
average weekly wage as defined in division (C) of section 4123.62 2650
of the Revised Code. On determination of the employee's full 2651
weekly wage, the compensation an employee receives shall be 2652
adjusted pursuant to division (A) of this section. 2653

If the amount of compensation an employee receives under this 2654
division is greater than the adjusted amount the employee receives 2655
under division (A) of this section that is based on the employee's 2656
full weekly wage, the excess amount shall be recovered in the 2657
manner provided in division (K) of section 4123.511 of the Revised 2658
Code. If the amount of compensation an employee receives under 2659
this division is less than the adjusted amount the employee 2660
receives under that division that is based on the employee's full 2661
weekly wage, the employee shall receive the difference between 2662
those two amounts. 2663

Sec. 4123.57. Partial disability compensation shall be paid 2664
as follows. 2665

Except as provided in this section, not earlier than 2666
twenty-six weeks after the date of termination of the latest 2667
period of payments under section 4123.56 of the Revised Code, or 2668
not earlier than twenty-six weeks after the date of the injury or 2669
contraction of an occupational disease in the absence of payments 2670
under section 4123.56 of the Revised Code, the employee may file 2671
an application with the bureau of workers' compensation for the 2672
determination of the percentage of the employee's permanent 2673
partial disability resulting from an injury or occupational 2674
disease. 2675

Whenever the application is filed, the bureau shall send a 2676
copy of the application to the employee's employer or the 2677

employer's representative and shall schedule the employee for a 2678
medical examination by the bureau medical section. The bureau 2679
shall send a copy of the report of the medical examination to the 2680
employee, the employer, and their representatives. Thereafter, the 2681
administrator of workers' compensation shall review the employee's 2682
claim file and make a tentative order as the evidence before the 2683
administrator at the time of the making of the order warrants. If 2684
the administrator determines that there is a conflict of evidence, 2685
the administrator shall send the application, along with the 2686
claimant's file, to the district hearing officer who shall set the 2687
application for a hearing. 2688

If an employee fails to respond to an attempt to schedule a 2689
medical examination by the bureau medical section, or fails to 2690
attend a medical examination scheduled under this section without 2691
notice or explanation, the employee's application for a finding 2692
shall be dismissed without prejudice. The employee may refile the 2693
application. A dismissed application does not toll the continuing 2694
jurisdiction of the industrial commission under section 4123.52 of 2695
the Revised Code. The administrator shall adopt rules addressing 2696
the manner in which an employee will be notified of a possible 2697
dismissal and how an employee may refile an application for a 2698
determination. 2699

The administrator shall notify the employee, the employer, 2700
and their representatives, in writing, of the tentative order and 2701
of the parties' right to request a hearing. Unless the employee, 2702
the employer, or their representative notifies the administrator, 2703
in writing, of an objection to the tentative order within twenty 2704
days after receipt of the notice thereof, the tentative order 2705
shall go into effect and the employee shall receive the 2706
compensation provided in the order. In no event shall there be a 2707
reconsideration of a tentative order issued under this division. 2708

If the employee, the employer, or their representatives 2709

timely notify the administrator of an objection to the tentative 2710
order, the matter shall be referred to a district hearing officer 2711
who shall set the application for hearing with written notices to 2712
all interested persons. Upon referral to a district hearing 2713
officer, the employer may obtain a medical examination of the 2714
employee, pursuant to rules of the industrial commission. 2715

(A) The district hearing officer, upon the application, shall 2716
determine the percentage of the employee's permanent disability, 2717
except as is subject to division (B) of this section, based upon 2718
that condition of the employee resulting from the injury or 2719
occupational disease and causing permanent impairment evidenced by 2720
medical or clinical findings reasonably demonstrable. The employee 2721
shall receive sixty-six and two-thirds per cent of the employee's 2722
average weekly wage, but not more than a maximum of thirty-three 2723
and one-third per cent of the statewide average weekly wage as 2724

defined in division (C) of section 4123.62 of the Revised Code, 2725
per week regardless of the average weekly wage, for the number of 2726
weeks which equals the percentage of two hundred weeks. Except on 2727
application for reconsideration, review, or modification, which is 2728
filed within ten days after the date of receipt of the decision of 2729
the district hearing officer, in no instance shall the former 2730
award be modified unless it is found from medical or clinical 2731
findings that the condition of the claimant resulting from the 2732
injury has so progressed as to have increased the percentage of 2733
permanent partial disability. A staff hearing officer shall hear 2734
an application for reconsideration filed and the staff hearing 2735
officer's decision is final. An employee may file an application 2736
for a subsequent determination of the percentage of the employee's 2737
permanent disability. If such an application is filed, the bureau 2738
shall send a copy of the application to the employer or the 2739
employer's representative. No sooner than sixty days from the date 2740
of the mailing of the application to the employer or the 2741
employer's representative, the administrator shall review the 2742

application. The administrator may require a medical examination 2743
or medical review of the employee. The administrator shall issue a 2744
tentative order based upon the evidence before the administrator, 2745
provided that if the administrator requires a medical examination 2746
or medical review, the administrator shall not issue the tentative 2747
order until the completion of the examination or review. 2748

The employer may obtain a medical examination of the employee 2749
and may submit medical evidence at any stage of the process up to 2750
a hearing before the district hearing officer, pursuant to rules 2751
of the commission. The administrator shall notify the employee, 2752
the employer, and their representatives, in writing, of the nature 2753
and amount of any tentative order issued on an application 2754
requesting a subsequent determination of the percentage of an 2755
employee's permanent disability. An employee, employer, or their 2756
representatives may object to the tentative order within twenty 2757

~~days after the receipt of the notice thereof. If no timely~~ 2758
objection is made, the tentative order shall go into effect. In no 2759
event shall there be a reconsideration of a tentative order issued 2760
under this division. If an objection is timely made, the 2761
application for a subsequent determination shall be referred to a 2762
district hearing officer who shall set the application for a 2763
hearing with written notice to all interested persons. No 2764
application for subsequent percentage determinations on the same 2765
claim for injury or occupational disease shall be accepted for 2766
review by the district hearing officer unless supported by 2767
substantial evidence of new and changed circumstances developing 2768
since the time of the hearing on the original or last 2769
determination. 2770

No award shall be made under this division based upon a 2771
percentage of disability which, when taken with all other 2772
percentages of permanent disability, exceeds one hundred per cent. 2773
If the percentage of the permanent disability of the employee 2774

equals or exceeds ninety per cent, compensation for permanent 2775
partial disability shall be paid for two hundred weeks. 2776

Compensation payable under this division accrues and is 2777
payable to the employee from the date of last payment of 2778
compensation, or, in cases where no previous compensation has been 2779
paid, from the date of the injury or the date of the diagnosis of 2780
the occupational disease. 2781

When an award under this division has been made prior to the 2782
death of an employee, all unpaid installments accrued or to accrue 2783
under the provisions of the award are payable to the surviving 2784
spouse, or if there is no surviving spouse, to the dependent 2785
children of the employee, and if there are no children surviving, 2786
then to other dependents as the administrator determines. 2787

(B) For purposes of this division, "payable per week" means 2788
the seven-consecutive-day period in which compensation is paid in 2789
installments according to the schedule associated with the 2790
applicable injury as set forth in this division. 2791

Compensation paid in weekly installments according to the 2792
schedule described in this division may only be commuted to one or 2793
more lump sum payments pursuant to the procedure set forth in 2794
section 4123.64 of the Revised Code. 2795

In cases included in the following schedule the compensation 2796
payable per week to the employee is the statewide average weekly 2797
wage as defined in division (C) of section 4123.62 of the Revised 2798
Code per week and shall be paid in installments according to the 2799
following schedule: 2800

For the loss of a first finger, commonly known as a thumb, 2801
sixty weeks. 2802

For the loss of a second finger, commonly called index 2803
finger, thirty-five weeks. 2804

For the loss of a third finger, thirty weeks.	2805
For the loss of a fourth finger, twenty weeks.	2806
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	2807 2808
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	2809 2810 2811 2812
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	2813 2814
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	2815 2816
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	2817 2818 2819 2820
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	2821 2822 2823
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	2824 2825 2826 2827
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the	2828 2829 2830 2831 2832 2833 2834

administrator may take that fact into consideration and increase 2835
the award of compensation accordingly, but the award made shall 2836
not exceed the amount of compensation for loss of a hand. 2837

For the loss of a hand, one hundred seventy-five weeks. 2838

For the loss of an arm, two hundred twenty-five weeks. 2839

For the loss of a great toe, thirty weeks. 2840

For the loss of one of the toes other than the great toe, ten 2841
weeks. 2842

The loss of more than two-thirds of any toe is considered 2843
equal to the loss of the whole toe. 2844

The loss of less than two-thirds of any toe is considered no 2845
loss, except as to the great toe; the loss of the great toe up to 2846
the interphalangeal joint is co-equal to the loss of one-half of 2847
the great toe; the loss of the great toe beyond the 2848
interphalangeal joint is considered equal to the loss of the whole 2849
great toe. 2850

For the loss of a foot, one hundred fifty weeks. 2851

For the loss of a leg, two hundred weeks. 2852

For the loss of the sight of an eye, one hundred twenty-five 2853
weeks. 2854

For the permanent partial loss of sight of an eye, the 2855
portion of one hundred twenty-five weeks as the administrator in 2856
each case determines, based upon the percentage of vision actually 2857
lost as a result of the injury or occupational disease, but, in no 2858
case shall an award of compensation be made for less than 2859
twenty-five per cent loss of uncorrected vision. "Loss of 2860
uncorrected vision" means the percentage of vision actually lost 2861
as the result of the injury or occupational disease. 2862

For the permanent and total loss of hearing of one ear, 2863
twenty-five weeks; but in no case shall an award of compensation 2864

be made for less than permanent and total loss of hearing of one 2865
ear. 2866

For the permanent and total loss of hearing, one hundred 2867
twenty-five weeks; but, except pursuant to the next preceding 2868
paragraph, in no case shall an award of compensation be made for 2869
less than permanent and total loss of hearing. 2870

In case an injury or occupational disease results in serious 2871
facial or head disfigurement which either impairs or may in the 2872
future impair the opportunities to secure or retain employment, 2873
the administrator shall make an award of compensation as it deems 2874
proper and equitable, in view of the nature of the disfigurement, 2875
and not to exceed the sum of ten thousand dollars. For the purpose 2876
of making the award, it is not material whether the employee is 2877
gainfully employed in any occupation or trade at the time of the 2878
administrator's determination. 2879

When an award under this division has been made prior to the 2880
death of an employee all unpaid installments accrued or to accrue 2881
under the provisions of the award shall be payable to the 2882
surviving spouse, or if there is no surviving spouse, to the 2883
dependent children of the employee and if there are no such 2884
children, then to such dependents as the administrator determines. 2885

When an employee has sustained the loss of a member by 2886
severance, but no award has been made on account thereof prior to 2887
the employee's death, the administrator shall make an award in 2888
accordance with this division for the loss which shall be payable 2889
to the surviving spouse, or if there is no surviving spouse, to 2890
the dependent children of the employee and if there are no such 2891
children, then to such dependents as the administrator determines. 2892

(C) Compensation for partial impairment under divisions (A) 2893
and (B) of this section is in addition to the compensation paid 2894
the employee pursuant to section 4123.56 of the Revised Code. A 2895

claimant may receive compensation under divisions (A) and (B) of 2896
this section. 2897

In all cases arising under division (B) of this section, if 2898
it is determined by any one of the following: (1) the amputee 2899
clinic at University hospital, Ohio state university; (2) the 2900
opportunities for Ohioans with disabilities agency; (3) an amputee 2901
clinic or prescribing physician approved by the administrator or 2902
the administrator's designee, that an injured or disabled employee 2903
is in need of an artificial appliance, or in need of a repair 2904
thereof, regardless of whether the appliance or its repair will be 2905
serviceable in the vocational rehabilitation of the injured 2906
employee, and regardless of whether the employee has returned to 2907
or can ever again return to any gainful employment, the bureau 2908
shall pay the cost of the artificial appliance or its repair out 2909
of the surplus created by division (B) of section 4123.34 of the 2910
Revised Code. 2911

In those cases where an opportunities for Ohioans with 2912
disabilities agency's recommendation that an injured or disabled 2913
employee is in need of an artificial appliance would conflict with 2914
their state plan, adopted pursuant to the "Rehabilitation Act of 2915
1973," 87 Stat. 355, 29 U.S.C.A. 701, the administrator or the 2916
administrator's designee or the bureau may obtain a recommendation 2917
from an amputee clinic or prescribing physician that they 2918
determine appropriate. 2919

(D) If an employee of a state fund employer makes application 2920
for a finding and the administrator finds that the employee has 2921
contracted silicosis as defined in division (Y), or coal miners' 2922
pneumoconiosis as defined in division (Z), or asbestosis as 2923
defined in division (BB) of section 4123.68 of the Revised Code, 2924
and that a change of such employee's occupation is medically 2925
advisable in order to decrease substantially further exposure to 2926
silica dust, asbestos, or coal dust and if the employee, after the 2927

finding, has changed or shall change the employee's occupation to 2928
an occupation in which the exposure to silica dust, asbestos, or 2929
coal dust is substantially decreased, the administrator shall 2930
allow to the employee an amount equal to fifty per cent of the 2931
statewide average weekly wage per week for a period of thirty 2932
weeks, commencing as of the date of the discontinuance or change, 2933
and for a period of one hundred weeks immediately following the 2934
expiration of the period of thirty weeks, the employee shall 2935
receive sixty-six and two-thirds per cent of the loss of wages 2936
resulting directly and solely from the change of occupation but 2937
not to exceed a maximum of an amount equal to fifty per cent of 2938
the statewide average weekly wage per week. No such employee is 2939
entitled to receive more than one allowance on account of 2940
discontinuance of employment or change of occupation and benefits 2941
shall cease for any period during which the employee is employed 2942
in an occupation in which the exposure to silica dust, asbestos, 2943
or coal dust is not substantially less than the exposure in the 2944
occupation in which the employee was formerly employed or for any 2945
period during which the employee may be entitled to receive 2946
compensation or benefits under section 4123.68 of the Revised Code 2947
on account of disability from silicosis, asbestosis, or coal 2948
miners' pneumoconiosis. An award for change of occupation for a 2949
coal miner who has contracted coal miners' pneumoconiosis may be 2950
granted under this division even though the coal miner continues 2951
employment with the same employer, so long as the coal miner's 2952
employment subsequent to the change is such that the coal miner's 2953
exposure to coal dust is substantially decreased and a change of 2954
occupation is certified by the claimant as permanent. The 2955
administrator may accord to the employee medical and other 2956
benefits in accordance with section 4123.66 of the Revised Code. 2957

(E) If a firefighter or police officer makes application for 2958
a finding and the administrator finds that the firefighter or 2959
police officer has contracted a cardiovascular and pulmonary 2960

disease as defined in division (W) of section 4123.68 of the Revised Code, and that a change of the firefighter's or police officer's occupation is medically advisable in order to decrease substantially further exposure to smoke, toxic gases, chemical fumes, and other toxic vapors, and if the firefighter, or police officer, after the finding, has changed or changes occupation to an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is substantially decreased, the administrator shall allow to the firefighter or police officer an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of seventy-five weeks immediately following the expiration of the period of thirty weeks the administrator shall allow the firefighter or police officer sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the firefighter or police officer is employed in an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which the firefighter or police officer was formerly employed or for any period during which the firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code.

(F) An order issued under this section is appealable pursuant

to section 4123.511 of the Revised Code but is not appealable to 2994
court under section 4123.512 of the Revised Code. 2995

Sec. 4123.66. (A) In addition to the compensation provided 2996
for in this chapter, the administrator of workers' compensation 2997
shall disburse and pay from the state insurance fund the amounts 2998
for medical, nurse, and hospital services and medicine as the 2999
administrator deems proper and, in case death ensues from the 3000
injury or occupational disease, the administrator shall disburse 3001
and pay from the fund reasonable funeral expenses in an amount not 3002
to exceed fifty-five hundred dollars. The bureau of workers' 3003
compensation shall reimburse anyone, whether dependent, volunteer, 3004
or otherwise, who pays the funeral expenses of any employee whose 3005
death ensues from any injury or occupational disease as provided 3006
in this section. The administrator may adopt rules, with the 3007
advice and consent of the bureau of workers' compensation board of 3008
directors, with respect to furnishing medical, nurse, and hospital 3009
service and medicine to injured or disabled employees entitled 3010
thereto, and for the payment therefor. In case an injury or 3011
industrial accident that injures an employee also causes damage to 3012
the employee's eyeglasses, artificial teeth or other denture, or 3013
hearing aid, or in the event an injury or occupational disease 3014
makes it necessary or advisable to replace, repair, or adjust the 3015
same, the bureau shall disburse and pay a reasonable amount to 3016
repair or replace the same. 3017

(B) The administrator, in the rules the administrator adopts 3018
pursuant to division (A) of this section, may adopt rules 3019
specifying the circumstances under which the bureau may make 3020
immediate payment for the first fill of prescription drugs for 3021
medical conditions identified in an application for compensation 3022
or benefits under section 4123.84 or 4123.85 of the Revised Code 3023
that occurs prior to the date the administrator issues an initial 3024
determination order under division (B) of section 4123.511 of the 3025

Revised Code. If the claim is ultimately disallowed in a final
administrative or judicial order, and if the employer is a state
fund employer who pays assessments into the surplus fund account
created under section 4123.34 of the Revised Code, the payments
for medical services made pursuant to this division for the first
fill of prescription drugs shall be charged to and paid from the
surplus fund account and not charged through the state insurance
fund to the employer against whom the claim was filed.

(C) (1) If an employer or a welfare plan has provided to or on
behalf of an employee any benefits or compensation for an injury
or occupational disease and that injury or occupational disease is
determined compensable under this chapter, the employer or a
welfare plan may request that the administrator reimburse the
employer or welfare plan for the amount the employer or welfare
plan paid to or on behalf of the employee in compensation or
benefits. The administrator shall reimburse the employer or
welfare plan for the compensation and benefits paid if, at the
time the employer or welfare plan provides the benefits or
compensation to or on behalf of employee, the injury or
occupational disease had not been determined to be compensable
under this chapter and if the employee was not receiving
compensation or benefits under this chapter for that injury or
occupational disease. The administrator shall reimburse the
employer or welfare plan in the amount that the administrator
would have paid to or on behalf of the employee under this chapter
if the injury or occupational disease originally would have been
determined compensable under this chapter. If the employer is a
merit-rated employer, the administrator shall adjust the amount of
premium next due from the employer according to the amount the
administrator pays the employer. The administrator shall adopt
rules, in accordance with Chapter 119. of the Revised Code, to
implement this division.

(2) As used in this division, "welfare plan" has the same 3058
meaning as in division (1) of 29 U.S.C.A. 1002. 3059

(D)(1) Subject to the requirements of division (D)(2) of this 3060
section, the administrator may make a payment of up to five 3061
hundred dollars to either of the following: 3062

(a) The centers of medicare and medicaid services, for 3063
reimbursement of conditional payments made pursuant to the 3064
"Medicare Secondary Payer Act," 42 U.S.C. 1395y; 3065

(b) The Ohio department of medicaid, or a medical assistance 3066
provider to whom the department has assigned a right of recovery 3067
for a claim for which the department has notified the provider 3068
that the department intends to recoup the department's prior 3069
payment for the claim, for reimbursement under sections 5160.35 to 3070
5160.43 of the Revised Code for the cost of medical assistance 3071
paid on behalf of a medical assistance recipient. 3072

(2) The administrator may make a payment under division 3073
(D)(1) of this section if the administrator makes a reasonable 3074
determination that both of the following apply: 3075

(a) The payment is for reimbursement of benefits for an 3076
injury or occupational disease. 3077

(b) The injury or occupational disease is compensable, or is 3078
likely to be compensable, under this chapter or Chapter 4121., 3079
4127., or 4131. of the Revised Code. 3080

(3) Any payment made pursuant to this division shall be 3081
charged to and paid from the surplus fund account created under 3082
section 4123.34 of the Revised Code. 3083

(4) Nothing in this division shall be construed as limiting 3084
the centers of medicare and medicaid services, the department, or 3085
any other entity with a lawful right to reimbursement from 3086
recovering sums greater than five hundred dollars. 3087

(5) The administrator may adopt rules, with the advice and 3088
consent of the bureau of workers' compensation board of directors, 3089
to implement this division. 3090

Sec. 4123.68. Every employee who is disabled because of the 3091
contraction of an occupational disease or the dependent of an 3092
employee whose death is caused by an occupational disease, is 3093
entitled to the compensation provided by sections 4123.55 to 3094
4123.59 and 4123.66 of the Revised Code subject to the 3095
modifications relating to occupational diseases contained in this 3096
chapter. An order of the administrator issued under this section 3097
is appealable pursuant to sections 4123.511 and 4123.512 of the 3098
Revised Code. 3099

The following diseases are occupational diseases and 3100
compensable as such when contracted by an employee in the course 3101
of the employment in which such employee was engaged and due to 3102
the nature of any process described in this section. A disease 3103
which meets the definition of an occupational disease is 3104
compensable pursuant to this chapter though it is not specifically 3105
listed in this section. 3106

SCHEDULE 3107

Description of disease or injury and description of process: 3108

(A) Anthrax: Handling of wool, hair, bristles, hides, and 3109
skins. 3110

(B) Glanders: Care of any equine animal suffering from 3111
glanders; handling carcass of such animal. 3112

(C) Lead poisoning: Any industrial process involving the use 3113
of lead or its preparations or compounds. 3114

(D) Mercury poisoning: Any industrial process involving the 3115
use of mercury or its preparations or compounds. 3116

(E) Phosphorous poisoning: Any industrial process involving 3117

the use of phosphorous or its preparations or compounds. 3118

(F) Arsenic poisoning: Any industrial process involving the 3119
use of arsenic or its preparations or compounds. 3120

(G) Poisoning by benzol or by nitro-derivatives and 3121
amido-derivatives of benzol (dinitro-benzol, anilin, and others): 3122
Any industrial process involving the use of benzol or 3123
nitro-derivatives or amido-derivatives of benzol or its 3124
preparations or compounds. 3125

(H) Poisoning by gasoline, benzine, naphtha, or other 3126
volatile petroleum products: Any industrial process involving the 3127
use of gasoline, benzine, naphtha, or other volatile petroleum 3128
products. 3129

(I) Poisoning by carbon bisulphide: Any industrial process 3130
involving the use of carbon bisulphide or its preparations or 3131
compounds. 3132

(J) Poisoning by wood alcohol: Any industrial process 3133
involving the use of wood alcohol or its preparations. 3134

(K) Infection or inflammation of the skin on contact surfaces 3135
due to oils, cutting compounds or lubricants, dust, liquids, 3136
fumes, gases, or vapors: Any industrial process involving the 3137
handling or use of oils, cutting compounds or lubricants, or 3138
involving contact with dust, liquids, fumes, gases, or vapors. 3139

(L) Epithelion cancer or ulceration of the skin or of the 3140
corneal surface of the eye due to carbon, pitch, tar, or tarry 3141
compounds: Handling or industrial use of carbon, pitch, or tarry 3142
compounds. 3143

(M) Compressed air illness: Any industrial process carried on 3144
in compressed air. 3145

(N) Carbon dioxide poisoning: Any process involving the 3146
evolution or resulting in the escape of carbon dioxide. 3147

(O) Brass or zinc poisoning: Any process involving the 3148
manufacture, founding, or refining of brass or the melting or 3149
smelting of zinc. 3150

(P) Manganese dioxide poisoning: Any process involving the 3151
grinding or milling of manganese dioxide or the escape of 3152
manganese dioxide dust. 3153

(Q) Radium poisoning: Any industrial process involving the 3154
use of radium and other radioactive substances in luminous paint. 3155

(R) Tenosynovitis and prepatellar bursitis: Primary 3156
tenosynovitis characterized by a passive effusion or crepitus into 3157
the tendon sheath of the flexor or extensor muscles of the hand, 3158
due to frequently repetitive motions or vibrations, or prepatellar 3159
bursitis due to continued pressure. 3160

(S) Chrome ulceration of the skin or nasal passages: Any 3161
industrial process involving the use of or direct contact with 3162
chromic acid or bichromates of ammonium, potassium, or sodium or 3163
their preparations. 3164

(T) Potassium cyanide poisoning: Any industrial process 3165
involving the use of or direct contact with potassium cyanide. 3166

(U) Sulphur dioxide poisoning: Any industrial process in 3167
which sulphur dioxide gas is evolved by the expansion of liquid 3168
sulphur dioxide. 3169

(V) Berylliosis: Berylliosis means a disease of the lungs 3170
caused by breathing beryllium in the form of dust or fumes, 3171
producing characteristic changes in the lungs and demonstrated by 3172
x-ray examination, by biopsy or by autopsy. 3173

This chapter does not entitle an employee or the employee's 3174
dependents to compensation, medical treatment, or payment of 3175
funeral expenses for disability or death from berylliosis unless 3176
the employee has been subjected to injurious exposure to beryllium 3177

dust or fumes in the employee's employment in this state preceding 3178
the employee's disablement and only in the event of such 3179
disability or death resulting within eight years after the last 3180
injurious exposure; provided that such eight-year limitation does 3181
not apply to disability or death from exposure occurring after 3182
January 1, 1976. In the event of death following continuous total 3183
disability commencing within eight years after the last injurious 3184
exposure, the requirement of death within eight years after the 3185
last injurious exposure does not apply. 3186

Before awarding compensation for partial or total disability 3187
or death due to berylliosis, the administrator of workers' 3188
compensation shall refer the claim to a qualified medical 3189
specialist for examination and recommendation with regard to the 3190
diagnosis, the extent of the disability, the nature of the 3191
disability, whether permanent or temporary, the cause of death, 3192
and other medical questions connected with the claim. An employee 3193
shall submit to such examinations, including clinical and x-ray 3194
examinations, as the administrator requires. In the event that an 3195
employee refuses to submit to examinations, including clinical and 3196
x-ray examinations, after notice from the administrator, or in the 3197
event that a claimant for compensation for death due to 3198
berylliosis fails to produce necessary consents and permits, after 3199
notice from the administrator, so that such autopsy examination 3200
and tests may be performed, then all rights for compensation are 3201
forfeited. The reasonable compensation of such specialist and the 3202
expenses of examinations and tests shall be paid, if the claim is 3203
allowed, as part of the expenses of the claim, otherwise they 3204
shall be paid from the surplus fund. 3205

(W) Cardiovascular, pulmonary, or respiratory diseases 3206
incurred by firefighters or police officers following exposure to 3207
heat, smoke, toxic gases, chemical fumes and other toxic 3208
substances: Any cardiovascular, pulmonary, or respiratory disease 3209

of a firefighter or police officer caused or induced by the 3210
cumulative effect of exposure to heat, the inhalation of smoke, 3211
toxic gases, chemical fumes and other toxic substances in the 3212
performance of the firefighter's or police officer's duty 3213
constitutes a presumption, which may be refuted by affirmative 3214
evidence, that such occurred in the course of and arising out of 3215
the firefighter's or police officer's employment. For the purpose 3216
of this section, "firefighter" means any regular member of a 3217
lawfully constituted fire department of a municipal corporation or 3218
township, whether paid or volunteer, and "police officer" means 3219
any regular member of a lawfully constituted police department of 3220
a municipal corporation, township or county, whether paid or 3221
volunteer. 3222

This chapter does not entitle a firefighter, or police 3223
officer, or the firefighter's or police officer's dependents to 3224
~~compensation, medical treatment, or payment of funeral expenses~~ 3225
for disability or death from a cardiovascular, pulmonary, or 3226
respiratory disease, unless the firefighter or police officer has 3227
been subject to injurious exposure to heat, smoke, toxic gases, 3228
chemical fumes, and other toxic substances in the firefighter's or 3229
police officer's employment in this state preceding the 3230
firefighter's or police officer's disablement, some portion of 3231
which has been after January 1, 1967, except as provided in 3232
division (E) of section 4123.57 of the Revised Code. 3233

Compensation on account of cardiovascular, pulmonary, or 3234
respiratory diseases of firefighters and police officers is 3235
payable only in the event of temporary total disability, permanent 3236
total disability, or death, in accordance with section 4123.56, 3237
4123.58, or 4123.59 of the Revised Code. Medical, hospital, and 3238
nursing expenses are payable in accordance with this chapter. 3239
Compensation, medical, hospital, and nursing expenses are payable 3240
only in the event of such disability or death resulting within 3241